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*(Amended: County Commission Resolution No. 1997-81 & No. 1998-02)*

*(Amended: County Commission Resolution No. 2008-002)*

*(Amended: County Commission Resolution No. 2009-034 & No. 2009-035)*

## **SECTION 1                      TITLE, CREATION AND ADOPTION**

- 1.1     This regulation shall be known as the Gallatin Canyon/Big Sky Zoning Regulation and is adopted specifically for the Gallatin Canyon/Big Sky Planning and Zoning District. The district was created by Resolution #1990-33 of the Board of County Commissioners, Gallatin County, Montana, on May 15, 1990.
- 1.2     Pursuant to Section 76-2-101, MCA there has been created a Planning and Zoning Commission for the Gallatin Canyon/Big Sky Planning and Zoning District which consists of the three County Commissioners, the County Surveyor and a county official appointed by the County Commissioners.
- 1.3     The Planning and Zoning Commission shall have all the powers given to it by the state statutes of the state of Montana and by this regulation.
- 1.4     Pursuant to Section 76-2-101, MCA, there is hereby adopted a development pattern for the Gallatin Canyon/Big Sky Planning and Zoning District consisting of the Gallatin Canyon/Big Sky Plan, Gallatin Canyon/Big Sky Land Use Map, Gallatin Canyon/Big Sky Zoning Regulation, Gallatin Canyon/Big Sky Zoning Map and Gallatin Canyon/Big Sky Capital Improvement Policy.
- 1.5     This regulation is adopted under provision of Section 76-2-101 through Section 76-2-112, MCA., and is intended to be in effect only when adopted under said law in conjunction with a zoning map.

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## **SECTION 2            PURPOSE**

2.1    The purpose of this regulation is to:

- a.    Preserve the scenic beauty and natural environment of the District.
- b.    Protect significant views.
- c.    Protect scenic qualities, fresh air, groundwater, and surface water.
- d.    Promote the preservation of wildlife and fish habitat.
- e.    Preserve open space as identified in the Plan.
- f.    Promote the health, safety, and general welfare of County residents.
- g.    Secure safety from fire, panic, and other dangers.
- h.    Provide adequate air and light.
- i.    Facilitate the adequate provision of transportation, water, sewerage, parks, and other public requirements.
- j.    Guard against congestion on the roads.
- k.    Prevent overcrowding of land.
- l.    Avoid undue concentration of population.
- m.    Ensure that the built environment enhances the natural environment.
- n.    Encourage good design and orderly growth.
- o.    Enhance resort experiences and opportunities.
- p.    Preserve and protect property values.
- q.    Encourage the development of affordable housing.
- r.    Encourage cluster development in and around existing development.

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## SECTION 3

## APPLICATION OF DISTRICT REGULATIONS

3.1 Except as herein provided in sections 42 and 43, non-conforming uses and non-conforming buildings, and variances; these regulations shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.

3.2 Conformance with Zoning Regulation.

- a. No building, structure or land shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless it is in conformity with all of the regulations herein specified for the zoning district in which it is located.
- b. No building or other structure shall hereafter be erected or altered unless it is in compliance with the height, bulk, lot area and setback requirements of this regulation.
- c. No part of any yard, or other open space, or off-street parking required about or in connection with any building for the purpose of complying with this regulation shall be included as part of a yard, open space, or off-street parking similarly required for any other building.
- d. No yard or lot existing at the time of adoption of this regulation shall be reduced in dimension or area below the minimum requirements herein set forth. Yards or lots created after the effective date of this regulation shall meet at least the minimum requirements established by this regulation.
- e. Exceptions: Any public utility pipeline, well or pumphouse necessary for provision of services required for public health and safety, may be exempted from provisions of these regulations by the Zoning Enforcement Agent upon findings that such structures are consistent with the GC/BS Plan and will not create a hardship for other property owners.

*(Amended: County Commission Resolution No. 1996-62)*

3.3 Applicability to Subdivisions. Only the regulations in effect at the time of the submittal of an application for preliminary plat approval apply to a proposed subdivision. An application for approval of a preliminary plat is deemed submitted to the Board of County Commissioners when a complete application is submitted to the Gallatin County Planning Office in accordance with the Gallatin County Subdivision Regulations.

3.4 Applicability to Land Use Permits. Only the regulations in effect at the time of the filing of an application for a land use permit under Section 42 apply to a proposed development.

- 3.5 Minimum Requirements: In the interpretation and application of these regulations, the provisions of these regulations shall be held to the minimum requirements adopted for the promotion of the health, safety and general welfare of the planning and zoning district. Whenever the requirements of these regulations are at variance with the requirements of any other lawfully adopted rules or regulations or covenants, the most restrictive, or that imposing the higher standards, shall govern.
- 3.6 In accordance with Section 76-2-109, MCA, these regulations shall not apply to lands used for grazing, horticulture, agriculture or the growing of timber.
- 3.7 Land owners are advised that portions of the zoning district are subject to private covenants.

*(Amended: County Commission Resolution No. 1997-81)*



## **SECTION 4                      INVALIDATION**

- 4.1    Invalidation: If any section, subsection, subdivision, sentence, clause, paragraph or phrase of this regulation or any attachments hereto is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of these regulations to render the same operative and reasonably effective for carrying out the main purpose of the regulations.

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## SECTION 5 ESTABLISHMENT OF DISTRICTS

- 5.1 Zones. The jurisdiction of the Gallatin Canyon/Big Sky Planning and Zoning District is hereby divided into zones or "districts," as shown on the official zoning map, which map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this regulation.
- 5.2 Certificate. The Official Map shall be available in the County Clerk and Recorder's Office and shall bear a certificate with the signature of the Chairman of the Planning and Zoning Commission attested by the County Clerk and the date of adoption of this regulation. The certificate shall read as follows:

This is to certify that this is the Official Zoning Map referred to in Section 5.2 of the Gallatin Canyon/Big Sky Planning and Zoning District regulation

\_\_\_\_\_  
CHAIRMAN, GALLATIN CANYON/BIG SKY  
PLANNING AND ZONING COMMISSION

Attested \_\_\_\_\_

Date of Adoption \_\_\_\_\_

- 5.3 Changes to the Map. If any changes to the map are made by amendment to these regulations in accordance with Section 39 thereof, such changes shall be made to the Official Zoning Map and signed, dated, and certified upon the map or upon the material attached to the map.
- 5.4 Official Zoning Map. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map kept in the office of the County Clerk and Recorder shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the zoning district. For the convenience of district residents, a copy of the zoning map and regulation may also be kept in the office of the Big Sky Owner's Association (BSOA) and at the Ophir School Library. In the event that there are discrepancies between the official zoning map and the map on file at the BSOA Office or the Ophir School Library, the official map shall prevail.
- 5.5 Interpretations: Subject to the appeals procedure of Section 38 and court appeals, official interpretations of the map and zoning regulation can only be made by the Zoning Enforcement Agent, the Planning and Zoning Commission and the County Commission.

- 5.6 Replacement of Official Zoning Map. In the event the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes or additions thereto, the Planning and Zoning Commission may adopt and certify a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or admissions in the prior map, but no such corrections shall have the effect of amending the original zoning map or any subsequent amendment thereof. The new official zoning map shall include a certificate that reads as follows:

This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted \_\_\_\_\_ as part of the zoning regulations for Gallatin Canyon/Big Sky Planning and Zoning District, Gallatin County, Montana.

\_\_\_\_\_  
CHAIRMAN, GALLATIN CANYON/BIG SKY  
PLANNING AND ZONING COMMISSION

Attested \_\_\_\_\_

Date of Adoption \_\_\_\_\_

- 5.7 Interpretation of Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the boundaries shall be interpreted as following the nearest logical line to that shown; where:
- a. Boundaries indicated as approximately following the center line of streets, highways or alleys, shall be construed to follow such center lines.
  - b. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
  - c. Boundaries indicated as following the center line of streams, watercourse, canals, or ditches shall be construed to follow such center lines, even if the river changes course.
  - d. Boundaries indicated as parallel to or extensions of features indicated on the Official Zoning Map shall be determined according to the scale of the map.
  - e. Boundaries indicated as following section lines or quarter section lines or quarter-quarter section lines shall be construed as following such lines.

- f. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or where other circumstances or controversy arise over district boundaries, the Zoning Commission shall interpret the district boundary.
- g. Topographic features shown on the Official Zoning Map are illustrative only.
- h. Where private covenants (existing as of the adoption date of this regulation) and these regulations are not consistent, the more restrictive provisions shall prevail as interpreted by the Zoning Enforcement Agent.

5.8 Interpretation of Uses. If questions arise concerning the appropriate classification of a particular use, or if the specific use is not listed, the County Commission shall determine the appropriate classification for that use.

In interpreting a use classification, the County Commission shall determine:

- a. That the use and its operation are compatible with the uses permitted in the district wherein the use is proposed to be located.
- b. That the use is similar to one or more uses permitted in the district wherein it is proposed to be located.
- c. That the use will not cause substantial injury to values of property in the neighborhood or district wherein it is proposed to be located.
- d. That the intent of the Plan or this regulation will not be abrogated by such classification.

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## SECTION 6 DEFINITIONS

For the purpose of this ordinance certain terms and words are defined below. Words used in the present tense shall also include the future; words or phrases used in the singular shall also include the plural; and words used in the plural shall also include the singular. The word "building" includes structure and "structure" includes building; the words "used" or "occupied" shall include within their meaning "intended, arranged, or designed to be used or occupied." The word "person" shall include corporation, partnership, or other legal entity. The masculine pronoun includes the feminine. Where other definitions are necessary and are not defined herein, the Planning and Zoning Commission shall define such terms. *(Amended: County Commission Resolution No. 1997-81)*

- 6.1 Accessory Building or Use. A building or use which: (1) is subordinate in area, extent or purpose to the principal building or principal use served; or (2) contributes to the comfort, convenience, or is a necessity for the occupants of the principal building or principal use.
- 6.2 Accessory Apartment. A dwelling unit that has been added onto, or created within, a single family house, accessory structure, or commercial structure where permitted. Accessory Apartments may be detached only where specifically permitted herein.
- 6.3 Accessory Unit. For the purposes of this regulation, an accessory unit is defined as an accessory apartment, caretaker residence and/or guest house.
- 6.4 Affordable Housing. Housing for low- and medium-income families that cannot afford to pay prevailing rents or make monthly payments necessary to obtain housing in the community. The definition of affordable housing shall be consistent with terminology established by the MT Department of Commerce.
- 6.5 Agriculture. The tilling of soil, the raising of crops, horticulture and gardening, dairying or animal husbandry, including all uses customarily incidental thereto; but not including any agriculture industry or business such as fruit packing plants, game farms, fur farms, animal hospitals, commercial dog kennels, horse stables, riding arenas, commercial feed lots or similar uses.
- 6.6 Airport. Any runway, landing area or facility, as certified by state and/or federal authorities, whether publicly or privately owned and operated, which is designed, used or intended to be used either by public carriers or private aircraft for landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down area, hangars and other necessary buildings and open space.
- 6.7 Airstrip, Private. Any runway or landing area designated for the personal use of a property owner.
- 6.8 Apartment. One or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building containing two or more dwelling units.

- 6.9 Art Foundry. An establishment that specializes in casting metals for the purposes of creating pieces of art.
- 6.10 Automobile body repair and paint shop. An establishment with the primary business function of body and frame repair of passenger automobiles and light trucks. Repair work includes painting.
- 6.11 Automobile repair shop. An establishment with the primary business function of repair work related to the operation of passenger automobiles and light trucks.
- 6.12 Bed and Breakfast. A dwelling unit (Section 29.4) serving guests on a nightly basis, used as the primary residence of the owner; and serving meals to residents and overnight guests only.
- 6.12A Big Sky Area. The Big Sky Area includes the area within the Gallatin Canyon/Big Sky Zoning District, inclusive of the Madison County portion of Big Sky, Montana.
- 6.13 Boarding/Rooming House. A residential structure that provides lodging with or without meals, is available for permanent or seasonal occupancy, and which makes no provisions for cooking in any of the rooms occupied by paying guests.
- 6.14 Building. A structure with a roof, built for support, shelter or enclosure of persons, animals, chattels, or property of any kind.
- 6.15 Building Height. The vertical distance from the average elevation of the proposed finished grade at the front of a building to the highest point of a flat roof, the deck line of a mansard roof and the mean height between eaves and ridge for gable, hip and gambrel roofs.
- 6.16 Building Materials. Materials intended for the construction of houses or other buildings, including but not limited to doors and windows, drywall, hardware, appliances, electrical and plumbing, insulation, lumber, masonry, roofing, siding and trusses.
- 6.17 Bus Shelter. A small, roofed structure, usually having three walls, located near a street and designed primarily for the protection and convenience of bus passengers.
- 6.18 Bus Turnout. A paved indentation at the side of a road or parking lot designed to allow buses to pick up and discharge passengers.
- 6.19 Camper. Any individual who occupies a campsite.
- 6.20 Campground. Any lot or land providing temporary overnight occupancy for two or more tents and recreational vehicles including permanent structures such as a management office, storage facilities, sanitary facilities, caretaker's residence and accessory uses as listed in Section 29.5. The definition of campground does not apply to temporary uses such as hunting camps, or to tents or recreational vehicles for personal use, if the number of tents and/or recreational vehicles does not exceed five.



- 6.21 Campsite. A plot of ground within a campground intended for exclusive occupation by a tent or recreational vehicle.
- 6.22 Car Wash. A business whose primary purpose is washing automobiles and light trucks.
- 6.23 Caretaker Residence. Dwelling unit for the family of a person who takes care of the house or land of an owner who may be absent. Caretaker residences may be located within a single-family dwelling unit, above a garage, within or above an accessory building, or as a separate living unit on a parcel with an existing dwelling unit.
- 6.24 Certificate of Occupancy. A document issued by the Zoning Enforcement Agent allowing the occupancy or use of a building in compliance with all applicable codes and ordinances.
- 6.25 Childcare Facility. An establishment providing for the care, supervision and protection of children.
- 6.26 Cluster Development. A development design technique that concentrates buildings on a part of the site to allow the remaining land to be used for recreation, common open spaces and/or preservation of environmentally sensitive features.
- 6.27 County Commission. The Board of County Commissioners of Gallatin County, Montana.
- 6.28 Commercial Use. A use which involves the exchange of goods or services, for compensation, whether by money, barter, forgiveness of indebtedness, or any other remuneration in exchange for goods, services, lodging, meals, entertainment in any form, or the right to occupy space over a period of time.
- 6.29 Comprehensive Plan. A general plan which shall include any document or portion of any document duly adopted by the Planning and Zoning Commission which is intended to guide the growth and development of the area. For the purposes of this document, the terms, general plan, master plan and comprehensive plan are interchangeable.
- 6.30 Conditional Use. Uses, other than permitted uses, that may be allowed in a specific zoning category, but which require a public hearing by the governing body to consider additional safeguards to maintain and assure the health, safety, and general welfare of the community and to maintain the character of the Gallatin Canyon\Big Sky Planning and Zoning District.
- 6.31 Convenience Store. Any retail establishment under 3,500 square feet which offers for sale prepackaged food products, household items, newspapers, magazines and sandwiches and other freshly prepared foods.

- 6.32 Density. The total number of dwelling units allowed per gross acre or the floor area ratio allowed for commercial and industrial development.
- 6.33 Development Rights. The potential for the improvement of a parcel of real property, measured in dwelling units, existing because of the zoning classification of the parcel.
- 6.34 Dormitory. A structure which provides rooms for individuals or groups. Dormitories do not include individual kitchen facilities.
- 6.35 Dwelling, Multi-Family. A structure or portion thereof used for occupancy by two or more families living independently of each other in two or more dwelling units.
- 6.36 Dwelling, Single Family. A structure designed with complete, permanent and independent living facilities for one family.
- 6.37 Dwelling Unit. A structure or portion thereof providing permanent cooking, eating, sleeping and living facilities for one family and any resident domestic employees.
- 6.38 Employee. A person employed a minimum of 30 hours a week by an Employer.
- 6.38A Employee Housing. Housing rented or leased at a reduced rate to Employees. The housing rental or lease term may be short-term or long-term, as defined herein. Housing types may include, Employee Housing Dormitory, Employee Housing Mixed Use, Employee Housing Commercial, and Employee Housing Condominium.
- 6.38B Employee Housing (Short-term). Housing rented or leased for any period up to and including one hundred twenty (120) consecutive days per year to Employees.
- 6.38C Employee Housing (Long-term). Housing rented or leased for a period greater than one hundred twenty (120) consecutive days per year to Employees.
- 6.38D Employee Housing Dormitory. A building providing shared sleeping accommodations only for Employees of one or more Employers. Individual sleeping rooms may or may not have a private bathroom, and do not have kitchen facilities.
- 6.38E Employee Housing Mixed Use. A hotel or motel owned or leased by the Employer with specific areas designated as an Employee Housing Dormitory. The dormitory portion shall meet the development standards for Employee Housing Dormitory. The Employer must own or lease a portion of the building in order to designate areas as an Employee Housing Dormitory for Employees.
- 6.38F Employee Housing Commercial. Housing that provides permanent cooking, sleeping, and living facilities that are either attached, above, or on subsequent stories of a commercial building that shall only be occupied by Employees (and

his/her family if applicable) of the owner or lessor of the commercial building, or of an Employer operating a commercial business in the building.

- 6.38G Employee Housing Condominium. Housing that provides permanent cooking, sleeping, and living facilities that shall be occupied by Employees (and his/her family, if applicable).
- 6.38H Employer. An individual or entity (inclusive of that entity's majority-owned subsidiaries) that is located in and/or conducting business in the Big Sky Area.
- 6.39 Enforcement Agent. The Gallatin County Planning Director or his/her designee.
- 6.40 Family. Any individual or two or more persons related by blood or marriage, or a group of not more than four persons (excluding domestic employees) who need not be related by blood or marriage, living together as a single non-profit housekeeping unit.
- 6.41 Freeholder. One having title to realty; either of inheritance or for life; either legal or equitable title.
- 6.42 Gambling Establishment. Any place, room, building or location that is used and employed for card games authorized by state statute.
- 6.43 Garage. A deck, building, or parking structure, or part thereof, used or intended to be used for the parking and storage of vehicles.
- 6.44 Greenbelt. Completely undeveloped space not occupied by any structure or impervious surface. The purpose of a greenbelt is to protect views, wetlands and aquifers, ridge tops and other important geographical considerations such as old-growth timber, rock formations and grasslands.
- 6.45 Greenhouse. A building or structure constructed primarily of glass, glass-like translucent material, cloth, lath, or similar materials, which is devoted to the protection or cultivation of flowers or other plants.
- 6.46 Guest House. A second living unit which is not leased, subleased, rented or sub rented separately from the main dwelling unit.
- 6.47 Guest Ranch. Facility which provides short-term lodging to the general public, offers on-premise recreational and/or educational programs, and features central dining facilities.
- 6.48 Helistop. Any landing area, either at ground level or elevated on a structure, designated for use for the taking off or landing of helicopters for the emergency purpose of picking up or discharging of passengers or cargo.

Helistops do not include Heliports, defined as permanent fueling, passenger or cargo facilities, fueling, maintenance and overhaul, service, storage, tie-down areas, hangars or other buildings, service facilities, or open spaces designed for

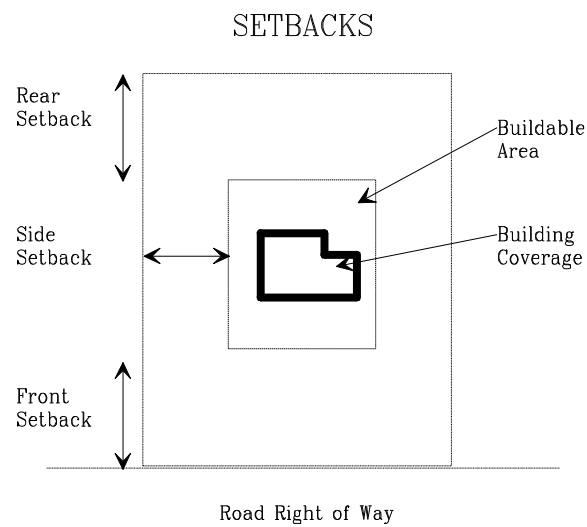
- 6.49 Home Occupation. An occupation or profession which is incidental to and carried on in a dwelling, accessory building, or on premises, by a member of the family residing within the dwelling, which is clearly secondary to the use of the dwelling for residential purposes.
- 6.50 Hostel. A structure providing dormitory-style, short-term lodging.
- 6.51 Hotel. A facility offering short-term lodging on a nightly rate to the general public, as opposed to Employee Housing as defined herein. A hotel has rooms with doors that open to an interior lobby, and may provide additional services, such as restaurants, entertainment, meeting rooms and recreational facilities.
- 6.52 Industry, heavy. Those industries whose processing of products results in the emission of any atmospheric pollutant, light flashes, or glare, odor, noise, or vibration which may be heard and/or felt off the premises and those industries which constitute a fire or explosion hazard.
- 6.53 Industry, light. A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, packaging, treatment, incidental storage, sales and distribution of such products that do not result in conditions described for heavy industry.
- 6.54 Landscaping. The vegetative planting of trees, shrubs, grass, flowers, etc. and the placement of ornamental fixtures such as fountains, ornamental walls, fences, benches, trellises, and statuary. This definition shall also include the designing of the placement of such materials.
- 6.55 Light Industry. A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, packaging, treatment, incidental storage, sales and distribution of such products, but excluding basic industrial processing.
- 6.56 Lot. A parcel or plot of land shown as an individual unit of ownership on the most recent plat or other record of subdivision.
- 6.57 Lot, corner. A lot situated at the junction of and abutting two or more streets.
- 6.58 Lot, coverage. The total area of a lot covered by the principal and accessory buildings.
- 6.59 Lot lines. The lines bounding a lot as defined herein.
- 6.60 Lot width. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.
- 6.61 Manufactured Housing. Residential dwellings constructed entirely or substantially off-site.

- 6.62 Manufacturing, light. Fabrication of and/or assembly of goods from previously prepared materials.
- 6.63 Medical Offices, Clinics and Centers. An establishment where patients are admitted for diagnosis and treatment by licensed health care professionals.
- 6.64 Mini-warehouse. A building or group of buildings in a controlled access and fenced or screened compound that contains relatively small storage spaces of varying sizes and/or spaces for recreational vehicles or boats, having individual, compartmentalized and controlled access for the dead storage of excess personal property of an individual or household generally stored in residential accessory structures, when such buildings or group of buildings are not located on the lot of the residence.
- 6.65 Mobile Home. A form of housing known as a "trailer," "house-trailer," or "trailer coach," built to be transportable on its own chassis, comprised of frame and wheels, and designed to be used as a dwelling when connected to appropriate utilities.
- 6.66 Mobile Home Park. A tract of land providing two or more mobile home spaces for lease or rent to the general public.
- 6.67 Mobile Home Subdivision. A parcel of land that has been reviewed and approved for the placement of mobile homes for residential use.
- 6.68 Motel. A facility offering short-term lodging on a nightly rate to the general public, as opposed to Employee Housing as defined herein. A motel has rooms with doors that open to the exterior rather than an interior lobby, and typically does not provide other services such as meeting rooms and restaurants.
- 6.69 Motor Home. See recreational vehicle.
- 6.70 Non-Conforming Parcel. A parcel, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of this zoning regulation but that fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning regulation.
- 6.71 Non-Conforming Structure. A structure, the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to this zoning ordinance but that fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning regulation.
- 6.72 Non-Conforming Use. A use or activity that was lawful prior to the adoption, revision or amendment to this zoning regulation but that fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning ordinance.
- 6.73 Nursery, plant. Facilities for commercial development, growth and sale of plants and/or for the utilization of and storage of equipment for landscaping operation and wholesale and/or retail sales of commercial gardening supplies.

- 6.74 Open Space. Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use and enjoyment of owners, occupants and their guests.
- 6.75 Open Space, Common. Land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and their guests of the development and may include such complementary structures and improvements as are necessary and appropriate.
- 6.76 Open Space, Green. An open space area not occupied by any structures or impervious surfaces.
- 6.77 Open Space, Private. Common open space, the use of which is normally limited to the occupants of a single dwelling or building or property.
- 6.78 Open Space, Public. Open space owned or dedicated to a public agency and used by the general public.
- 6.79 Open Space Ratio. Total area of open space divided by the total site area in which the open space is located.
- 6.80 Owner's Association. A community association that is organized in a development in which individual owners share common interests and responsibilities for costs and upkeep of common open space or facilities.
- 6.81 Parking Lot. An area or a structure, other than a public street or alley, designed or used for the temporary parking of motor vehicles and available for public use whether free, for compensation, or as an accommodation for customers or clients.
- 6.82 Parking Space, Off-Street. A space located off any public right-of-way which is at least nine feet by 20 feet in size for parking of any motor vehicle, with room to exit either side of the vehicle, having adequate maneuvering space and access to public roads.
- 6.83 Parking Space, On-Street. A temporary storage area for a motor vehicle that is located on a dedicated street right-of-way.
- 6.84 Places of Assembly. Any area where 20 or more individuals collect to participate or to observe programs of participation.
- 6.85 Places of Worship. A church, synagogue, temple, mosque or other facility that is used for prayer by persons of similar belief.
- 6.86 Planned Unit Development. A development project consisting of residential, recreational, commercial, industrial and office uses, or any combination thereof, which comprises a planned mixture of land uses built in a prearranged relationship to each other and which achieves the intent of Section 24 and

provides for the development of usable and desirable open space, while providing for the preservation of significant natural features of the land.

- 6.87 Recreational Vehicle. A vehicular-type portable structure without a permanent foundation that can be towed, hauled or driven and primarily designed as a temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.
- 6.88 Recreational Vehicle Park. Campground used exclusively for recreational vehicles, motor homes, travel trailers and tents, and having utilities provided to individual sites.
- 6.89 River Corridor. That area within 100 feet of the annual high waterline of the Gallatin River.
- 6.90 Seasonal Use. Part-time use associated with particular activities and which varies in accordance with periods of the year.
- 6.91 Setback. The horizontal distance between the property line and any structure.



- 6.92 Sign. Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of a person or entity or to communicate information of any kind to the public. *Note:* See more specific definitions in Section 36.
- 6.93 Stream Corridor. That area within 50 feet from any designated river or stream, with the exception of the Gallatin River.
- 6.94 Strip Commercial Development. Commercial or retail uses, usually one-story high and one-store deep, that front on a major street. Strip commercial development is typically characterized by street frontage parking lots serving individual or strips of stores. Generally, strip commercial development is arranged linearly rather than clustered.

- 6.95 Structural alteration. Any change in the shape or size of any portion of a building or of the supporting members of the building or structure such as walls, columns, beams, arches, girders, floor joists or roof joists.
- 6.96 Structure. An edifice or building of any kind or any piece of work artificially built up, constructed or composed of parts joined together in some definite manner, but not including fences less than six feet in height or paved areas.
- 6.97 Timberland. Land covered by harvestable trees and wooded areas.
- 6.98 Transfer of Development Rights. The conveyance of development rights by deed, easement, or other legal instrument, authorized by this regulation, to another parcel of land and the recording of that conveyance with the County Clerk and Recorder.
- 6.99 Travel Trailer. A non self-propelled vehicular portable structure, which is not more than eight feet in body width, designed as a temporary dwelling for travel, recreation and vacation uses.
- 6.100 Truck Terminals. A staging area for a regulated motor carrier with the sole purpose of loading, unloading and temporarily warehousing shipments.
- 6.101 Use. Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.
- 6.102 Utility Service. Distribution, transmission and/or collection systems serving the general public operating under one or more of the following conditions: (a) provides a service that is essential to the public health, safety or general welfare; (b) is subject to regulation by any governmental agency, either state or federal; (c) is granted a franchise.
- 6.103 Utility Service Establishment. Facilities, premises or business establishments used by a utility service for commercial activity.
- 6.104 Utility Service Operation Facilities. Facilities required by a utility service for its service operations, excluding commercial activities. Facilities may include buildings, structures, reception and distribution equipment above and below ground, lines, pipes, tanks, ponds, pumping stations, generation and switching stations, repeaters, antennas (including off-air, satellite and microwave), transmitters and receivers, construction and service equipment, valves, housings, or any other mechanical or electronic devices of any kind and any appurtenances and equipment necessary to the furnishing of the utility service.
- 6.105 Variance. A procedure which grants a property owner relief from certain provisions of the zoning regulation when, because of the particular physical surroundings, shape, or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from an inconvenience.



- 6.106 Veterinarian Clinics. A place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Outside pens, kennels, or runs are not permitted as part of a veterinarian clinic. Short-term boarding is permitted.
- 6.107 Warehouse. An enclosed building designed and used primarily for the storage of goods and materials.
- 6.108 Wildland. Uncultivated land covered by forest, brush or grass, with little or no development, except for roads, railroads, power lines and similar facilities, or remote structures used for recreation or timber production. Not fallow lands.
- 6.109 Wildland Residential Interface (WRI). Areas where structures are located close to natural vegetation. A boundary WRI is an area where a clearly defined, linear boundary of homes meets wildland vegetation. An intermix WRI is an area where structures are scattered among or mixed with wildland vegetation, without a clearly defined boundary.
- 6.110 Yard, front. An open space extending across the full width of the lot between the permitted front building line and the front lot line.
- 6.111 Yard, rear. An open space extending across the full width of the lot between the permitted rear building line and the rear lot line.
- 6.112 Yard, side. An open space extending from the side permitted building line to a side lot line, between front yard and rear yard running from the front to the rear lot lines.
- 6.113 Zoning Commission. The Gallatin Canyon/Big Sky Planning and Zoning Commission.
- 6.114 Zoning Enforcement Agent. The Gallatin County Planning Director or his/her designee.

*(Amended: County Commission Resolution No. 2002-49: See numbers 6.2; 6.9; 6.10; 6.11; 6.16; 6.22; 6.45; 6.54; 6.55; 6.64; 6.65; 6.66; 6.75; 6.102; 6.108; 6.109)*

*(Amended: County Commission Resolution No. 2007-001: See number 6.48)*

*(Amended: County Commission Resolution No. 2008-002: See number 6.12A, 6.38, 6.38A-H, 6.51, 6.68)*

*(Amended: County Commission Resolution No. 2009-034: See number 6.2)*

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## **SECTION 7                      RESIDENTIAL MULTI FAMILY 3,500 (R-MF-3,500)**

- 7.1    Intent: Provide for multi-family development in areas that have community water and sewer service.
- 7.2    Density: 3,500 square feet per multi-family dwelling, not to exceed 12 multi-family dwellings per gross acre.
- 7.3    Permitted Uses:
- a.      Accessory uses and structures.
  - b.      Apartments.
  - c.      Bus shelters and turnouts.
  - d.      Child care facilities.
  - e.      Family Day Care Homes or Group Day Care Homes as registered by the state of Montana.
  - f.      Multi-family dwellings.
  - g.      Trails for non-motorized use, parks and open space.
- 7.4    Conditional Uses:
- a.      Caretaker residence.
  - b.      Community residential facilities as defined in 76-2-411, MCA.
  - c.      Golf courses.
  - d.      Emergency helistops as an accessory to public safety facilities.
  - e.      Libraries.
  - f.      Places of worship.
  - g.      Planned unit developments.
  - h.      Public/private safety facilities or services.
  - i.      Schools.
  - j.      Utility service operation facilities.
- 7.5    Required Setbacks:
- |        |         |
|--------|---------|
| Front: | 25 feet |
| Side:  | 10 feet |
| Rear:  | 10 feet |
- 7.6    Minimum Lot Width: 60 feet
- 7.7    Maximum Building Height: 40 feet
- 7.8    Parking Standards:      See Section 34.
- 7.9    Additional Standards: See Development Standards.

*(Amended: County Commission Resolution No. 1997-81)*

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## **SECTION 8                      RESIDENTIAL Mobile Home 6,000 (R-SF-6,000)**

- 8.1    Intent:    Provide for mobile home parks or subdivisions in areas that have community water and sewer service.
- 8.2    Minimum Area Requirements:    6,000 square feet per mobile home unit, not to exceed seven mobile home units per gross acre.
- 8.3    Permitted Uses:
- a.      Bus shelters and turnouts.
  - b.      Family Day Care Homes or Group Day Care Homes registered by the Department of Family Services under 52-2-8, MCA.
  - c.      Mobile homes.
  - d.      Single-family dwellings.
  - e.      Trails for non-motorized use, parks and open space.
- 8.4    Conditional Uses:
- a.      Community residential facilities as defined in 76-2-411, MCA.
  - b.      Golf courses.
  - c.      Emergency helistops as an accessory to public safety facilities.
  - d.      Libraries.
  - e.      Places of worship.
  - f.      Planned unit developments.
  - g.      Public/private safety facilities or services.
  - h.      Schools.
  - i.      Utility service operation facilities.
- 8.5    Required Setbacks:
- |        |         |
|--------|---------|
| Front: | 25 feet |
| Side:  | 10 feet |
| Rear:  | 10 feet |
- 8.6    Minimum Lot Width:                      60 feet
- 8.7    Maximum Building Height: 40 feet
- 8.8    Parking Standards:                      See Section 34.
- 8.9    Additional Standards:                      See Development Standards.

*(Amended: County Commission Resolution No. 1997-81)*  
*(Amended: County Commission Resolution No. 2009-034)*

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## SECTION 9 RESIDENTIAL MULTI-FAMILY 6,500 (R-MF-6,500)

- 9.1 Intent: Provide for more dense residential development in areas that have community water and sewer service.
- 9.2 Density: 6,500 square feet per dwelling, not to exceed 6.7 dwellings per gross acre.
- 9.3 Permitted Uses:
- a. Accessory uses and structures.
  - b. Bus shelters and turnouts.
  - c. Child care facilities.
  - d. Family Day Care Homes or Group Day Care Homes registered by the Department of Family Services under 52-2-7, MCA.
  - e. Multi-family dwellings smaller than and including fourplexes.
  - f. Single-family dwellings.
  - g. Trails for non-motorized use, parks, and open space.
- 9.4 Conditional Uses:
- a. Accessory apartment, caretaker residence and guest house.
  - b. Bed and breakfast inns.
  - c. Community Residential Facilities as Defined in 76-2-411, MCA.
  - d. Golf courses.
  - e. Emergency helistops as an accessory to public safety facilities.
  - f. Libraries.
  - g. Multi-family dwellings larger than four-plexes.
  - h. Places of worship.
  - i. Planned unit developments.
  - j. Public/private safety facilities or services.
  - k. Schools.
  - l. Utility service operation facilities.
- 9.5 Required Setbacks:
- |        |         |
|--------|---------|
| Front: | 25 feet |
| Side:  | 10 feet |
| Rear:  | 10 feet |
- 9.6 Minimum Lot Width: 60 feet
- 9.7 Maximum Building Height: 40 feet
- 9.8 Parking Standards: See Section 34.
- 9.9 Additional Standards: See Development Standards.

*(Amended: County Commission Resolution No. 1997-81)*

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## **SECTION 10                      RESIDENTIAL SINGLE FAMILY 7,500 (R-SF-7,500)**

- 10.1 Intent: Provide for medium-density, single-family development in areas that have community sewer and water service.
- 10.2 Minimum Lot Size: 7,500 square feet.
- 10.3 Permitted Uses:
- a. Accessory uses and structures.
  - b. Bus shelters and turnouts.
  - c. Child care facilities.
  - d. Family Day Care Homes or Group Day Care Homes registered by the Department of Family Services under 52-2-7, MCA.
  - e. Single-family dwellings.
  - f. Trails for non-motorized use, parks and open space.
- 10.4 Conditional Uses:
- a. Bed and breakfast inns.
  - b. Community Residential Facilities as defined in 76-2-411, MCA.
  - c. Guest house, accessory apartment and caretaker residence.
  - d. Golf courses.
  - e. Emergency helistops as an accessory to public safety facilities.
  - f. Libraries.
  - g. Places of worship.
  - h. Planned unit developments.
  - i. Public/private safety facilities or services.
  - j. Schools.
  - k. Utility service operation facilities.
- 10.5 Required Setbacks:
- |        |         |
|--------|---------|
| Front: | 25 feet |
| Side:  | 15 feet |
| Rear:  | 10 feet |
- 10.6 Minimum Lot Width:                      70 feet
- 10.7 Maximum Building Height:
- |               |         |
|---------------|---------|
| Flat roof:    | 30 feet |
| Pitched roof: | 33 feet |
- 10.8 Parking Standards:                      See Section 34.
- 10.9 Additional Standards:                      See Development Standards.

*(Amended: County Commission Resolution No. 1997-81)*

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## **SECTION 11                      RESIDENTIAL SINGLE FAMILY 11,000 (R-SF-11,000)**

- 11.1 Intent. Provide for low-density, single-family development in areas that have community water and sewer service.
- 11.2 Minimum Lot Size. 11,000 square feet.
- 11.3 Permitted Uses:
- a. Accessory uses and structures.
  - b. Bus shelters and turnouts.
  - c. Child care facilities.
  - d. Family Day Care Homes or Group Day Care Homes registered by the Department of Family Services under 52-2-7, MCA.
  - e. Single-family dwellings.
  - f. Trails for non-motorized use, parks and open space.
- 11.4 Conditional Uses:
- a. Bed and breakfast inns.
  - b. Community Residential Facilities as defined in 76-2-411, MCA.
  - c. Guest house, accessory apartment and caretaker residence.
  - d. Golf courses.
  - e. Emergency helistops as an accessory to public safety facilities.
  - f. Libraries.
  - g. Places of worship.
  - h. Planned unit developments.
  - i. Public/private safety facilities or services.
  - j. Schools.
  - k. Utility service operation facilities.
- 11.5 Required Setbacks:
- |        |         |
|--------|---------|
| Front: | 25 feet |
| Side:  | 15 feet |
| Rear:  | 10 feet |
- 11.6 Minimum Lot Width: 85 feet
- 11.7 Maximum Building Height:
- |                |         |
|----------------|---------|
| Flat roofs:    | 30 feet |
| Pitched roofs: | 33 feet |
- 11.8 Parking Standards: See Section 34.
- 11.9 Additional Standards: See Development Standards.

*(Amended: County Commission Resolution No. 1997-81)*

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## SECTION 12 RESIDENTIAL CLUSTER SINGLE FAMILY 1 (RC-SF-1)

12.1 Intent: Provide for low-density, single-family clustered development as defined in Section 35.

12.2 Density: One dwelling unit per gross acre.

12.3 Permitted Uses:

- a. Accessory uses and structures.
- b. Bus shelters and turnouts.
- c. Child care facilities.
- d. Family Day Care Homes or Group Day Care Homes registered by the Department of Family Services under 52-2-7, MCA.
- e. Single-family dwellings.
- f. Trails for non-motorized use, parks and open space.

12.4 Conditional Uses:

- a. Accessory apartment, caretaker residence and guest house.
- b. Bed and breakfast inns.
- c. Community Residential Facilities as defined in 76-2-411, MCA.
- d. Emergency helistops as an accessory to public safety facilities.
- e. Golf courses.
- f. Libraries.
- g. Places of worship.
- h. Planned unit developments.
- i. Public/private safety facilities or services.
- j. Schools.
- k. Trails for motorized use.
- l. Utility service operation facilities.

12.5 Required Setbacks (greater than one acre):

Front:	35 feet
Side:	35 feet
Rear:	10 feet

Required Setbacks (less than one acre):

Front:	25 feet
Side:	15 feet
Rear:	10 feet

12.6 Maximum Building Height: 40 feet

12.7 Parking Standards: See Section 34.

12.8 Additional Standards: See Development Standards and standards for Residential Cluster Development (Section 35).

*(Amended: County Commission Resolution No. 1997-81)*

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## SECTION 13 RESIDENTIAL CLUSTER SINGLE FAMILY 2.5 (RC-SF-2.5)

13.1 Intent: Provide for a variety of low-density, single-family clustered development as defined in Section 35.

13.2 Density: One dwelling unit per 2½ acres gross.

13.3 Permitted Uses:

- a. Guest house and caretaker residence.
- b. Accessory uses and structures.
- c. Bus shelters and turnouts.
- d. Child care facilities.
- e. Family Day Care Homes or Group Day Care Homes registered by the Department of Family Services under 52-2-7, MCA.
- f. Single-family dwellings.
- g. Trails for non-motorized use, parks and open space.

13.4 Conditional Uses:

- a. Accessory Apartment
- b. Bed and breakfast inns.
- c. Community Residential Facilities as defined in 76-2-411, MCA.
- d. Emergency helistops as an accessory to public safety facilities.
- e. Golf courses.
- f. Libraries.
- g. Places of worship.
- h. Planned unit development.
- i. Public/private safety facilities or services.
- j. Schools.
- k. Trails for motorized use.
- l. Utility service operation facilities.

13.5 Required Setbacks (greater than one acre):

Front:	35 feet
Side:	35 feet
Rear:	10 feet

Required Setbacks (less than one acre):

Front:	25 feet
Side:	15 feet
Rear:	10 feet

13.6 Maximum Building Height:

Flat roof:	30 feet
Pitched roof:	33 feet

13.7 Parking Standards: See Section 34.

13.8 Additional Standards: See Development Standards and standards for Residential Cluster Development (Section 35).

*(Amended: County Commission Resolution No. 1997-81)*

*(Amended: County Commission Resolution No. 2009-034)*

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## SECTION 14 RESIDENTIAL CLUSTER SINGLE FAMILY 5 (RC-SF-5)

14.1 Intent: Provide for single-family clustered development as defined in Section 35.

14.2 Density: One dwelling unit per five acres gross.

14.3 Permitted Uses:

- a. Guest house and caretaker residence.
- b. Accessory uses and structures.
- c. Bus shelters and turnouts.
- d. Child care facilities.
- e. Family Day Care Homes or Group Day Care Homes registered by the Department of Family Services under 52-2-7, MCA.
- f. Single-family dwellings.
- g. Trails for non-motorized use, parks and open space.

14.4 Conditional Uses:

- a. Accessory Apartment
- b. Bed and breakfast inns.
- c. Campgrounds, provided they are located within a 1/2 mile of US 191, the Big Sky Spur Road, or another designated arterial road.
- d. Community Residential Facilities as defined in 76-2-411, MCA.
- e. Golf courses.
- f. Emergency helistops as an accessory to public safety facilities.
- g. Libraries.
- h. Places of worship.
- i. Planned unit developments.
- j. Public/private safety facilities or services.
- k. Schools.
- l. Trails for motorized use.
- m. Utility service operation facilities.

14.5 Required Setbacks (greater than one acre):

Front:	35 feet
Side:	35 feet
Rear:	10 feet

Required Setbacks (less than one acre):

Front:	25 feet
Side:	15 feet
Rear:	10 feet

14.6 Maximum Building Height: 40 feet

14.7 Parking Standards: See Section 34.

14.8 Additional Standards: See Development Standards and standards for Residential Cluster Development (Section 35).

*(Amended: County Commission Resolution No. 1997-81)*

*(Amended: County Commission Resolution No. 2009-034)*

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## SECTION 15 RESIDENTIAL CLUSTER SINGLE FAMILY 10 (RC-SF-10)

- 15.1 Intent: Provide for single-family clustered development in areas as defined in Section 35.
- 15.2 Density: One dwelling unit per 10 acres gross.
- 15.3 Permitted Uses:
- a. Accessory apartment, guest house and caretaker residence.
  - b. Accessory uses and structures.
  - c. Bus shelters and turnouts.
  - d. Child care facilities.
  - e. Family Day Care Homes or Group Day Care Homes registered by the Department of Family Services under 52-2-7, MCA.
  - f. Parks, open space and trails for non-motorized use.
  - g. Single-family dwellings.
- 15.4 Conditional Uses:
- a. Bed and breakfast inns.
  - b. Campgrounds, provided they are located within a 1/2 mile of US 191, the Big Sky Spur Road, or another designated arterial road.
  - c. Community Residential Facilities as defined in 76-2-411, MCA.
  - d. Golf courses.
  - e. Emergency helistops as an accessory to public safety facilities.
  - f. Parks, open space and trails for motorized use.
  - g. Places of worship.
  - h. Planned unit developments.
  - i. Public/private safety facilities or services.
  - j. Schools.
  - k. Utility service operation facilities.
- 15.5 Required Setbacks (greater than one acre):
- |        |         |
|--------|---------|
| Front: | 35 feet |
| Side:  | 35 feet |
| Rear:  | 10 feet |
- Required Setbacks (less than one acre):
- |        |         |
|--------|---------|
| Front: | 25 feet |
| Side:  | 15 feet |
| Rear:  | 10 feet |
- 15.6 Maximum Building Height: 40 feet
- 15.7 Parking Standards: See Section 34.
- 15.8 Additional Standards: See Development Standards and standards for Residential Cluster Development (Section 35).

*(Amended: County Commission Resolution No. 1997-81)*

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## SECTION 16 RESIDENTIAL CLUSTER SINGLE FAMILY 20 (RC-SF-20)

16.1 Intent: Provide for single-family clustered development as defined in Section 35.

16.2 Density: One dwelling unit per 20 acres gross.

16.3 Permitted Uses:

- a. Accessory apartment, guest house and caretaker residence.
- b. Accessory uses and structures.
- c. Bus shelters and turnouts.
- d. Child care facilities.
- e. Family Day Care Homes or Group Day Care Homes registered by the Department of Family Services under 52-2-7, MCA.
- f. Parks, open space and trails for non-motorized use.
- g. Single-family dwellings.

16.4 Conditional Uses:

- a. Bed and breakfast inns.
- b. Campgrounds, provided they are located within a 1/2 mile of US 191, the Big Sky Spur Road, or another designated arterial road.
- c. Community Residential Facilities as defined in 76-2-411, MCA.
- d. Emergency helistops as an accessory to public safety facilities.
- e. Parks, open space and trails for motorized use.
- f. Places of worship.
- g. Planned unit developments.
- h. Public/private safety facilities or services.
- i. Schools.
- j. Utility service operation facilities.

16.5 Required Setbacks (greater than one acre):

Front:	35 feet
Side:	35 feet
Rear:	10 feet

Required Setbacks (less than one acre):

Front:	25 feet
Side:	15 feet
Rear:	10 feet

16.6 Maximum Building Height:

Flat roof:	30 feet
Pitched roof:	33 feet

16.7 Parking Standards: See Section 34.

16.8 Additional Standards: See Development Standards and standards for Residential Cluster Development (Section 35).

*(Amended: County Commission Resolution No. 1997-81)*

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## SECTION 17                      RESIDENTIAL CLUSTER SINGLE FAMILY 40 (RC-SF-40)

17.1 Intent: Provide for single-family clustered development as defined in Section 35.

17.2 Density: One dwelling unit per 40 acres gross.

17.3 Permitted Uses:

- a. Accessory apartment, guest house and caretaker residence.
- b. Accessory uses and structures.
- c. Bus shelters and turnouts.
- d. Child care facilities.
- e. Family Day Care Homes or Group Day Care Homes registered by the Department of Family Services under 52-2-7, MCA.
- f. Parks, open space and trails for non-motorized use.
- g. Single-family dwellings.

17.4 Conditional Uses:

- a. Bed and breakfast inns.
- b. Campgrounds, provided they are located within a 1/2 mile of US 191, the Big Sky Spur Road, or another designated arterial road.
- c. Community Residential Facilities as defined in 76-2-411, MCA.
- d. Emergency helistops as an accessory to public safety facilities.
- e. Parks, open space and trails for motorized use.
- f. Places of worship.
- g. Planned unit developments.
- h. Public/private safety facilities or services.
- i. Schools.
- j. Utility service operation facilities.

17.5 <u>Required Setbacks (greater than one acre)</u> :	Front:	35 feet
	Side:	35 feet
	Rear:	10 feet

<u>Required Setbacks (less than one acre)</u> :	Front:	25 feet
	Side:	15 feet
	Rear:	10 feet

17.6 <u>Maximum Building Height</u> :	Flat roof:	30 feet
	Pitched roof:	33 feet

17.7 Parking Standards: See Section 34.

17.8 Additional Standards: See Development Standards and standards for Residential Cluster Development (Section 35).

*(Amended: County Commission Resolution No. 1997-81)*

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## SECTION 18 RESIDENTIAL CLUSTER SINGLE FAMILY 100 (RC-SF-100)

18.1 Intent: Provide for single-family clustered development as defined in Section 35.

18.2 Density: One dwelling unit per 100 acres gross.

18.3 Permitted Uses:

- a. Accessory apartment, guest house and caretaker residence.
- b. Accessory uses and structures.
- c. Bus shelters and turnouts.
- d. Child care facilities.
- e. Family Day Care Homes or Group Day Care Homes registered by the Department of Family Services under 52-2-7, MCA.
- f. Parks, open space and trails for non-motorized use.
- g. Single-family dwellings.

18.4 Conditional Uses:

- a. Bed and breakfast inns.
- b. Campgrounds, provided they are located within a 1/2 mile of US 191, the Big Sky Spur Road, or another designated arterial road.
- c. Community Residential Facilities as defined in 76-2-411, MCA.
- d. Emergency helistops as an accessory to public safety facilities.
- e. Parks, open space and trails for motorized use.
- f. Places of worship.
- g. Planned unit developments.
- h. Public/private safety facilities or services.
- i. Schools.
- j. Utility service operation facilities.

18.5 Required Setbacks (greater than one acre):

Front:	35 feet
Side:	35 feet
Rear:	10 feet

Required Setbacks (less than one acre):

Front	25 feet
Side:	15 feet
Rear:	10 feet

18.6 Maximum Building Height:

Flat roof:	30 feet
Pitched roof:	33 feet

18.7 Parking Standards: See Section 34.

18.8 Additional Standards: See Development Standards and standards for Residential Cluster Development (Section 35).

*(Amended: County Commission Resolution No. 1997-81)*

*(Amended: County Commission Resolution No. 2007-001).*

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## SECTION 19

## COMMERCIAL AND INDUSTRIAL MIXED USE (C-I)

- 19.1 Intent: The intent of this mixed use district is to provide both: (1) areas for commercial and service enterprises which are intended to serve the needs of the traveling public and local residents, and; (2) areas for light industrial uses for the benefit of the greater Big Sky area.
- 19.2 Minimum Lot Size and Width: There shall be no minimum lot area or width. Lot area and width shall, however, be large enough to accommodate proposed buildings, required parking and all applicable design standards, including landscaping (See 19.7, below).
- 19.3 Permitted Uses:
- a. Employee Housing Commercial.
  - b. Accessory garages, parking, loading facilities, fences, hedges and walls.
  - c. Art foundries.
  - d. Art galleries.
  - e. Artist's studios.
  - f. Bakeries.
  - g. Bars and lounges.
  - h. Bed and breakfast inns.
  - i. Bus shelters and bus turnouts.
  - j. Business and office machine sales, service and repair.
  - k. Car washes.
  - l. Churches.
  - m. Coin-operated laundromats.
  - n. Convenience stores, with or without gasoline sales.
  - o. Emergency services, including police, ambulance and fire stations.
  - p. Financial institutions.
  - q. Gasoline/service stations.
  - r. Greenhouses and Nurseries, plant.
  - s. Guide services for hunting and fishing and other outdoor activities.
  - t. Hardware/variety, appliance, plumbing and electrical supply sales.
  - u. Health and exercise establishments.
  - v. Manufacturing, light, completely indoors.
  - w. Medical Offices, clinics, and centers, including dental.
  - x. Motels.
  - y. Offices, professional.
  - z. Parks, trails and open space.
  - aa. Printing shops.
  - bb. Rental, sales and service of non-motorized sports equipment.
  - cc. Restaurants and cafes.
  - dd. Retail sales, including but not limited to:
    1. Clothing
    2. Food
    3. Furniture
    4. Gift/flower
    5. Lighting
    6. Pets, pet food and accessories
    7. Pharmaceutical

- 8. Showrooms
- 9. Sporting goods
- ee. Utility service establishment.
- ff. Sale of building materials, including materials stored in an outdoor yard.
- gg. Sign manufacture, painting and maintenance.
- hh. Storage facilities, including warehouses and mini-warehouses.
- ii. Veterinary clinics.
- jj. Workshops and offices, including but not limited to:
  - 1. Cabinetry, woodworking and millwork.
  - 2. Countertops and accessories.
  - 3. Electrical and lighting.
  - 4. Floor coverings.
  - 5. Mechanical and plumbing.
  - 6. Paints.
  - 7. Sheet metal.

#### 19.4 Conditional Uses:

- a. Accessory uses not listed in Section 19.3.
- b. Attached multi-family housing, located only on second or subsequent floors, at a maximum density of 12 units per acre.
- c. Automobile body repair and paint shops.
- d. Automobile repair shops.
- e. Animal Shelter.
- f. Campgrounds and campground accessory uses as listed in Section 29.5.
- g. Log building manufacturing yards.
- h. Drive-through facilities.
- i. Single-family dwellings.
- j. Firewood cutting and storage.
- k. Food processing plants.
- l. Foundries.
- m. Gravel quarries and quarry operations.
- n. Emergency helistops as accessory to public safety facilities.
- o. Light steel fabrication, including architectural and miscellaneous fabrication.
- p. Machine shops
- q. Planned unit developments.
- r. Recreational vehicle parks.
- s. Rental, sales and service of horses and motorized sports equipment.
- t. Roof-mounted satellite dish antennas.
- u. Truck terminals.
- v. Utility service operation facilities.
- w. Veterinary clinics with outdoor pens, kennels or runs.
- x. Employee Housing Dormitory.
- y. Employee Housing Mixed Use.

19.5 <u>Required Setbacks:</u>	Front:	20 feet
	Side:	10 feet
	Rear:	10 feet

#### 19.6 Maximum Building Height: 35 feet

## **SECTION 19                      COMMERCIAL AND INDUSTRIAL MIXED USE (C-I) (cont.)**

- 19.7 Additional Standards: See Development Standards, Entryway Corridor Standards (Section 32) and Commercial Design Standards (Section 31).
- 19.8 Off-Street Parking: See Section 34.
- 19.9 Outdoor Storage: All outdoor storage shall be screened from the view of neighboring lots.

*(Amended: County Commission Resolution No. 1997-81)*  
*(Amended: County Commission Resolution No. 2002-49)*  
*(Amended: County Commission Resolution No. 2007-001)*  
*(Amended: County Commission Resolution No. 2008-002)*

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## **SECTION 20            COMMUNITY COMMERCIAL (CC)**

20.1 Intent: The intent of this district is to accommodate the unified development of community retail, service and office facilities with convenient auto access.

20.2 Minimum Lot Size and Width. There shall be no minimum lot area and width. Lot area and width shall, however, be large enough to accommodate proposed buildings, required parking, and applicable design standards.

20.3 Permitted Uses:

- a. Accessory garages, parking, loading facilities, fences, hedges and walls.
- b. Bakeries.
- c. Barber and beauty shops.
- d. Bars and lounges.
- e. Bed and breakfast inn (with eight or less rooms).
- f. Bus shelters and bus turnouts.
- g. Coin-operated laundromats.
- h. Convenience stores.
- i. Emergency services, including police and fire stations.
- j. Employee Housing Commercial.
- k. Financial institutions.
- l. Hardware/variety stores.
- m. Health and exercise establishments.
- n. Lodges, clubs and fraternal organizations.
- o. Medical clinics and offices.
- p. Museums and galleries.
- q. Printing shops.
- r. Rental of non-motorized sports equipment.
- s. Restaurants and cafes.
- t. Retail sales, including but not limited to:
  - (1) Clothing sales.
  - (2) Food sales.
  - (3) Gift/flower shops.
  - (4) Jewelry sales.
  - (5) Pharmaceutical sales.
  - (6) Sporting goods sales.
- u. Utility service establishments.

20.4 Conditional Uses:

- a. Accessory uses not listed in Section 20.3.
- b. Artist's studios.
- c. Attached multi-family housing, located only on the second and/or higher stories at a maximum density of 12 units per acre.
- d. Bed and breakfast inns (more than eight rooms).
- e. Daycare facilities.
- f. Drive-through facilities.
- g. Dry-cleaning establishments.
- h. Gasoline sales and service.

## SECTION 20 COMMUNITY COMMERCIAL (CC) (cont.)

### 20.4 Conditional Uses: (cont.)

- i. Motel.
- j. Planned unit development.
- k. Private schools.
- l. Religious institutions.
- m. Roof-mounted satellite dish antennas.
- n. Storage facilities.
- o. Utility service operation facilities.
- p. Veterinary clinics.
- q. Employee Housing Dormitory.

20.5 <u>Required Setbacks:</u>	Front:	20 feet
	Side:	0 feet
	Rear:	10 feet

### 20.6 Maximum Building Heights: 35 feet

### 20.7 Additional Standards: See Development Standards.

### 20.8 Off-Street Parking: See Section 34.

*(Amended: County Commission Resolution No. 1997-81)*

*(Amended: County Commission Resolution No. 2008-002)*



## **SECTION 21            MEADOW CENTER (MC)**

- 21.1 Intent. The intent of this district is to provide a pedestrian-oriented, central location for basic services, shopping, employment and housing.
- 21.2 Minimum Lot Area and Width: Minimum lot size shall be sufficient to accommodate proposed buildings, required parking and design standards.
- 21.3 Permitted Uses:
- a. Accessory garages, parking, loading facilities, fences, hedges and walls.
  - b. Bakeries.
  - c. Barber and beauty shops.
  - d. Bars and lounges.
  - e. Bus shelters and bus turnouts.
  - f. Coin-operated laundromats.
  - g. Community and public facilities.
  - h. Emergency services, including police and fire stations.
  - i. Employee Housing Commercial.
  - j. Financial institutions.
  - k. Florists and gift shops.
  - l. Health and exercise establishments.
  - m. Indoor theaters/auditoriums.
  - n. Lodges, clubs and fraternal organizations.
  - o. Libraries.
  - p. Medical clinics and offices.
  - q. Museums and galleries.
  - r. Offices.
  - s. Parking lots.
  - t. Parks, trails and open space.
  - u. Photo studios.
  - v. Places of worship.
  - w. Post Office.
  - x. Printing shops.
  - y. Rental of non-motorized sports equipment.
  - z. Restaurants and cafes.
  - aa. Retail sales, including but not limited to:
    - (1) Clothing sales.
    - (2) Food sales.
    - (3) Hardware.
    - (4) Jewelry sales.
    - (5) Pharmaceutical sales.
    - (6) Sporting goods/variety goods sales.
  - bb. Utility service establishment.

## SECTION 21 MEADOW CENTER (MC) (cont.)

### 21.4 Conditional Uses:

- a. Accessory uses not listed in Section 21.3.
- b. Attached multi-family housing, located only on the second and/or higher stories.
- c. Buildings between 25 and 35 feet in height.
- d. Childcare Facilities
- e. Preschools
- f. Dry-cleaning establishments.
- g. Gasoline service stations, including the sale of convenience items.
- h. Roof-mounted satellite dish antennas.
- i. Planned unit developments.

*(Amended: County Commission Resolution No. 2006-14)*

### 21.5 The design of the Meadow Center shall:

- a. Provide for the safe and comfortable movement of pedestrians.
- b. Emphasize places of congregation, crossroads and nodal points by the use of building location, outdoor furniture, public art and vegetation.
- c. Include highly defined corridors framed by buildings and vegetation.
- d. Establish the traditional storefront/sidewalk relationship, with building fronts built close to sidewalks to facilitate the opportunities for browsing, social interaction and people watching. Buildings shall be accessed primarily from sidewalks.
- e. Create strong visual points and counterpoints through the dense arrangement of buildings and vegetation.
- f. Provide adequate access for service delivery and emergency vehicles.
- g. Provide for adequate parking which meets zoning regulations.

21.6 Maximum Building Height: 25 feet, unless approved as a conditional use under Section 41.

21.7 <u>Required Setbacks:</u>	Front	20 feet
	Side	0 feet
	Rear	10 feet

21.8 Additional Standards: See Development Standards.

21.9 Off-Street Parking: See Section 34.

*(Amended: County Commission Resolution No. 1997-81)*

*(Amended: County Commission Resolution No. 2008-002)*

## **SECTION 21.B      TOWN CENTER COMMERCIAL (TCC)**

21.B.1    Intent: The intent of this district is to provide a pedestrian-oriented, local-serving and visitor-serving center containing retail, office, public, quasi-public, recreational, parks, open space, trails and residential uses to complement and support the Town Center Residential District thereby creating the appearance and feel of a small town. The purpose of this district is to provide a location for local and visitor-serving services, shopping, employment, and housing. All Town Center commercial development shall be served by community water and sewer service.

### 21.B.2    Permitted Uses:

- a. Accessory garages, parking, loading facilities, fences, hedges and walls.
- b. Artist's studios.
- c. Bakeries.
- d. Barbershops and beauty shops.
- e. Bars and lounges.
- f. Bed and breakfast inns (eight or fewer rooms).
- g. Bus shelters, transit buildings, and bus turnouts.
- h. Business services (such as interior design, computer consulting, etc.).
- i. Coin-operated laundromats.
- j. Community and public facilities.
  - (1) Libraries.
  - (2) Civic buildings.
  - (3) Governmental buildings.
  - (4) Post Office.
  - (5) Parks, playgrounds, open space, and trails.
- k. Convention and meeting facilities.
- l. Drive-through facilities.
- m. Emergency services, including police and fire stations.
- n. Employee Housing Commercial
- o. Financial institutions.
- p. Florists and gift shops.
- q. Health and fitness/exercise facilities.
- r. Hotels and motels.
- s. Indoor theaters, cinemas, and auditoriums.
- t. Lodges, clubs, fraternal, and service organizations.
- u. Medical clinics and offices.
- v. Museums and galleries.
- w. Offices.
- x. Outdoor and indoor recreational facilities, including but not limited to tennis courts, ice skating rinks, racquet ball and other court games, swimming pools, and climbing facilities.
- y. Parking lots.
- z. Parks, playgrounds, trails, and open space.
- aa. Photography studios.
- bb. Printing shops.

- cc. Private, trade and professional schools.
- dd. Rental, sales and service of non-motorized sports equipment.
- ee. Residential apartments, condominiums, or timeshares located on second and subsequent stories.
- ff. Restaurants and cafes.
- gg. Retail Sales, including but not limited to:
  - (1) Clothing and footwear sales.
  - (2) Food sales.
  - (3) Hardware sales.
  - (4) Jewelry sales.
  - (5) Pharmaceutical sales.
  - (6) Sporting goods sales.
  - (7) Variety goods sales.
  - (8) Home design center sales.
- hh. Sports and recreation instruction.
- ii. Utility service establishment.

#### 21.B.3 Conditional Uses:

- a. Accessory uses not listed in Section 21.B.2.
- b. Churches (Religious institutions and Places of worship).
- c. Daycare facilities.
- d. Dry-cleaning establishments.
- e. Emergency helistops as an accessory to public safety facilities.
- f. Gambling establishments, only within hotels.
- g. Gasoline sales, including motor vehicle service and repair.
- h. Kilns and foundries.
- i. Planned unit development.
- j. Roof-mounted satellite dish antennas.
- k. Sign manufacture, painting and maintenance.
- l. Utility service operation facilities.
- m. Veterinary clinics.
- n. Employee Housing Dormitory.
- o. Employee Housing Mixed Use.

#### 21 .B.4 Design and Patterns of Use: Design of the Town Center Commercial District shall be achieved through a Planned Unit Development.

The Design of the Town Center Commercial area shall be governed by the standards set forth in the Big Sky Town Center Planned Unit Development and the Big Sky Town Center Design Standards and Guidelines manual.

Spatial organization of the district shall be compact and pedestrian-oriented. The primary circulation system shall consist of an organized street pattern and should define a centrally located public space—i.e., a “Town Plaza”—surrounded by a commercial area.

- Ground floor uses within the commercial area should be predominately retail and food and beverage services such as restaurants and lounges, and high pedestrian volume offices such as brokerages, title companies, and insurance

businesses.

- Second floor uses should consist primarily of a mix of residential apartments, condominiums, or timeshares, and professional office uses, with limited retail uses such as food and beverage services, galleries, and art and photography studios.
- Specialty commercial uses such as theaters, cinemas, and supermarkets should serve as visual and functional anchors for the district.
- Visitor lodging and recreational uses should be located close to the Highway 64 corridor.
- Parking should be organized into an efficient system of shared lots, with easy vehicular access and circulation.
- Town Center Commercial District shall be connected to the Town Center Residential District with a suitable mix of parks, open space and trails.

21 .B.5 Minimum Lot Area: See Table 21.B.1.

21 .B.6 Minimum Lot Width: See Table 21.B.1.

21 .B.7 Minimum Setbacks: See Table 21.B.1.

Elements such as canopies, awnings, balconies, and/or roof overhangs and gutters may encroach into the adjacent road right-of-way up to five (5) feet, provided that no portion of these encroachments project into the driving lanes or on-street parking areas. All overhangs or other encroachments shall have a minimum of eight (8) feet of clearance from the top of the sidewalk.

21.B.8 Minimum Building Height: See Table 21.B.1

21 .B.9 Maximum Building Height: See Table 21.B.1, Section 31.B.4, and the Big Sky Town Center Design Standards and Guidelines.

21.B.10 Parking Standards: See Section 34, Parking, and Section 34.11, Town Center Parking.

21.B.11 Additional Standards: See Section 29, General Development Standards

**Table 21.B.1: Town Center Commercial District**

**Minimum Lot Size, Minimum Lot Width, Required Setbacks, and Maximum Building Height**

Land Use Designations (1)	Lot Requirements		Minimum Setbacks			Building Height			
	Minimum Area	Minimum Width	Front Yard	Side Yard	Rear Yard	Min Stories	Min Feet	Max Stories	Max Feet
Commercial Core, 3-4 story area	2,500 SF	30 Feet	0 Feet	0 Feet	5 Feet	3	40	4	55
Commercial Core, 1-3 story area	2,000 SF	30 Feet	0 Feet	0 Feet	5 Feet	1	20	3	45
Neighborhood Commercial area	10,000 SF	50 Feet	0 Feet	0 Feet	5 Feet	1	20	2	45

Note: Land Use designations such as Commercial Core and Neighborhood Commercial are shown in the Big Sky Town Center Design Standards and Guidelines manual.

(Amended: County Commission Resolution No. 2000-018 on April 11, 2000.)

(Amended: County Commission Resolution No. 2004-145 on November 9, 2004.)

(Amended: County Commission Resolution No. 2006-084 on August 29, 2006.)

(Amended: County Commission Resolution No. 2007-001).

(Amended: County Commission Resolution No. 2007-102)

(Amended: County Commission Resolution No. 2008-002)

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## **SECTION 21.C TOWN CENTER RESIDENTIAL (TCR)**

21.C.1 Intent: The intent of the Town Center Residential district is to provide a mix of housing types, densities, parks, open space and trails to complement and support the Town Center Commercial District, to thereby create the appearance and feel of a small town, and to create a year-round residential and recreational population center. All Town Center residential development shall be served by community water and sewer service.

21.C.2 Permitted Uses:

- a. Accessory uses and structures.
- b. Bus shelters and turnouts.
- c. Childcare facilities.
- d. Churches (Religious institutions and Places of worship).
- e. Family Day Care Homes or Group Day Care Homes registered by the Department of Family Services under 52-2-7, MCA.
- f. Multi-family dwellings.
- g. Parks, recreation areas, and open space.
- h. Single-family dwellings.
- i. Trails for non-motorized use.

21.C.3 Conditional Uses:

- a. Accessory apartment, caretaker residence and guest houses.
- b. Bed and breakfast inns (eight or fewer rooms).
- c. Community Residential Facilities as defined in 76-2411, MCA.
- d. Home Occupations.
- e. Planned unit developments.
- f. Public/private safety facilities or services.
- g. Schools.
- h. Utility service operation facilities.
- i. Employee Housing Condominium.

21.C.4 Design and Housing Pattern: The design of the Town Center Residential District shall be achieved through a Planned Unit Development.

- The housing mix should consist of single-family and multi-family units and include both owner-occupied and rental units.
- Single-family detached housing should provide a range of lot sizes and unit areas at densities ranging from less than four (4) units per acre to six (6) units per acre.
- Multi-family units should include a variety of housing configurations, including but not limited to duplexes, triplexes, and multi-plexes, and should reflect a range of lot sizes and configurations, with densities ranging from less than eight (8) units per acre to fifteen (15) units per acre.
- Town Center Residential District shall be connected to the Town Center Commercial District with a suitable mix of parks, open space and trails.

- 21.C.5 Density: See Table 21.C.1. Locations of specific densities shall be determined at the time of a land use permit application.
- 21.C.6 Minimum Lot Area: See Table 21.C.1
- 21.C.7 Minimum Lot Width: See Table 21.C.1
- 21.C.8 Required Setbacks: See Table 21.C.1
- 21.C.9 Maximum Building Height: See Table 21.C.1.
- (i) For that portion of a dwelling with parapet walls or mansard roofs and a flat roof system\*: The building height shall be calculated by measuring the vertical distance from the highest point of the parapet wall or mansard roof to the average elevation of the four most varied finished grades adjacent to the structure, including the highest and the lowest. Non-occupiable elements such as elevator extensions, staircase enclosures, roof access hatches, chimneys, cupolas, roof-mounted mechanical or electrical equipment, or other architectural elements or screens may extend up to six (6) feet above the maximum building height for all dwellings in this district, and shall be setback at least six (6) feet from the street side roof edge. Roof-mounted mechanical and/or electrical equipment shall be shielded from view.
- \* - Flat Roof System: Shall be defined as a roof having a slope from 0:12 to 1:12.
- (ii) Maximum building heights for accessory buildings shall be specified in the Big Sky Town Center Design Standards and Guidelines manual.
- 21.C.10 Parking Standards: See Section 34, Parking and the Big Sky Town Center Design Standards and Guidelines.
- 21.C.11 Additional Standards: See Section 29, General Development Standards.

**Table 21.C.1: Town Center Residential District  
Minimum Lot Size, Minimum Lot Width, Required  
Setbacks, and Maximum Building Height**

Residential Dwelling Unit Type	Maximum DU/Acre	Maximum Units/ Bldg	Lot Requirements		Minimum Setbacks			Building
			Minimum Area	Minimum Width	Front Yard	Side Yard	Rear Yard	Maximum Height
Multi-Family Residential	15	12	5,000 SF	80 Feet	10 Feet	10 Feet	10 Feet	40 Feet
Single-Family Residential	6	1	6,000 SF	60 Feet	15 Feet	10 Feet	10 Feet	33 Feet

(Amended: County Commission Resolution No. 2000-18 on April 11, 2000.)  
 (Amended: County Commission Resolution No. 2004-145 on November 9, 2004.)  
 (Amended: County Commission Resolution No. 2006-084 on August 29, 2006.)  
 (Amended: County Commission Resolution No. 2007-102, on August 21, 2007)  
 (Amended: County Commission Resolution No. 2008-002)



## SECTION 22 RECREATIONAL BUSINESS (R-B)

22.1 Intent: The intent of this district is to provide for large-scale recreational activities and for the retail and service activities frequently required by recreationists.

22.2 Minimum Lot Size: One acre.

22.3 Permitted Uses:

- a. Bus shelters and bus turnouts.
- b. Caretaker residence.
- c. Employee Housing Commercial.
- d. Accessory garages, parking, loading facilities, fences, hedges and walls.
- e. Open space.
- f. Outdoor and indoor recreational facilities, including but not limited to golf courses, driving ranges, ice skating, hockey rinks, tennis courts, cross country ski facilities, racquet/handball courts, equestrian centers, multi-use trails, swimming pools, ski trails, lifts, and hunting and fishing facilities.
- g. Picnic areas.
- h. Playgrounds and parks.
- i. Rental and sale of sports equipment related to the principal use, not to exceed 1,500 square feet of floor space.
- j. Sports/recreation instruction.

22.4 Conditional Uses:

- a. Accessory uses not listed in Section 22.3.
- b. Campgrounds.
- c. Emergency helistops as an accessory to public safety facilities.
- d. Limited retail sales which are accessory to the principal use.
- e. Planned unit developments.
- f. Rental and sales of sports equipment related to the principal use in areas exceeding 1,500 square feet.
- g. Restaurants, cafes, bars and lounges as accessories to the principal use.
- h. Roof-mounted satellite dish antennas.
- i. Utility service operation facilities.
- j. Employee Housing Dormitory.
- k. Employee Housing Condominium.

22.5 Required Setbacks:

Front:	20 feet
Side:	10 feet
Rear:	10 feet

22.6 Minimum Lot Width: 85 feet

22.7 Maximum Building Height: 35 feet

22.8 Additional Standards. See Development Standards.

22.9 Off-Street Parking. See Section 34.

*(Amended: County Commission Resolution No. 1997-81)*

*(Amended: County Commission Resolution No. 2007-001).*

*(Amended: County Commission Resolution No. 2008-002)*

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## **SECTION 23            RESORT (R)**

23.1 Intent: The intent of this district is to provide for planned resort development that include visitor accommodations, residential uses, recreational facilities and food service.

23.2 Minimum Lot Size: Forty acres.

23.3 Minimum Requirements: Any development proposal within the Resort District shall include, at a minimum, visitor accommodations, at least two of the recreational facilities listed in Section 23.4j and a food service facility. If a phased development proposal is submitted, these requirements shall be met in the first phase.

23.4 Permitted Uses:

- a. Accessory garages, parking, loading facilities, fences, hedges and walls.
- b. Bus shelters and bus turnouts.
- c. Caretaker residence.
- d. Convention and meeting facilities.
- e. Employee Housing Commercial.
- f. Guest ranches.
- g. Hotels and motels.
- h. Multi-family dwellings.
- i. Open space.
- j. Outdoor and indoor recreational facilities, including but not limited to golf courses, driving ranges, ice skating rinks, tennis courts, cross country ski facilities, racquet ball and handball courts, equestrian centers, multi-use trails, swimming pools, ski trails and lifts, hunting and fishing facilities and educational facilities.
- k. Picnic areas.
- l. Playgrounds and parks.
- m. Rental and sales of sports equipment, not to exceed 1,500 square feet of floor space.
- n. Restaurants and cafes, bars and lounges as accessories to the principal use.
- o. Single-family dwellings.
- p. Sports/recreation instruction.

23.5 Conditional Uses:

- a. Accessory uses not listed in Section 23.4.
- b. Airports.
- c. Beauty and barber shops which are accessory to the principal use.
- d. Campgrounds.
- e. Gambling establishments, only within hotels.
- f. Health and exercise facilities which are accessory to the principal use.
- g. Limited retail sales which are accessory to the principal use.

*(Amended: County Commission Resolution No. 2007-001)*

## SECTION 23 RESORT (cont.)

### 23.5 Conditional Uses: (cont.)

- h. Planned unit developments.
- i. Rental and sales of sports equipment in areas exceeding 1,500 square feet.
- j. Roof-mounted satellite dish antennas.
- k. Structures over 35 feet in height.
- l. Utility service operation facilities.
- m. Employee Housing Dormitory.
- n. Employee Housing Mixed Use.

### 23.6 Density: The density is shown on the Official Zoning Map as the total number of units allowed as a matter of right. Units are calculated as follows:

- a. Single-Family Dwellings: Each single-family dwelling is the equivalent of one unit.
- b. Multi-Family Dwellings: Each separate dwelling unit within a multi-family dwelling structure is the equivalent of one unit. For example, a four-plex counts as four units.
- c. Hotels and Motels: Two sleeping or lodging rooms are the equivalent of one unit. For example, a 100-room motel would count as 50 units.

### 23.7 Required Setbacks:

Front:	20 feet
Side:	10 feet
Rear:	10 feet

### 23.8 Minimum Lot Width: 500 feet

### 23.9 Maximum Building Height: 35 feet, unless approved as a conditional use according to the procedures of Section 41.

### 23.10 Additional Standards: See Development Standards.

### 23.11 Off-Street Parking: See Section 34.

*(Amended: County Commission Resolution No. 1997-81  
(Amended: County Commission Resolution No. 2007-001)  
(Amended: County Commission Resolution No. 2008-002)*

## **SECTION 24            PLANNED UNIT DEVELOPMENT (PUD) OVERLAY DISTRICT**

24.1 Intent: The intent of this overlay district is to:

- a.     Preserve and enhance the natural amenities of the land and protect the natural features of the site.
- b.     Protect areas of important wildlife habitat.
- c.     Enhance the visual impact of development.
- d.     Create and preserve usable open space for recreational and aesthetic enjoyment within the planned unit development.
- e.     Permit flexibility of design for the placement, height, density and setbacks of buildings, interior circulation and off-street parking areas.
- f.     Preserve important site vegetation, outstanding natural topography and geologic features, while preventing soil erosion.
- g.     Cluster development effectively on those portions of land best suited to development and preserve valuable natural resources.
- h.     Promote development in accord with the goals and objectives of the Gallatin Canyon/Big Sky Plan.
- i.     Provide economies in the supply of utility service operations and other public services.

24.2 Application Procedure:

- a.     Preapplication Meeting. A minimum of 30 days prior to the date of application submittal, the applicant shall meet with a member of the Planning Staff to review the appropriate procedures, standards, documentation and any other requirements, including design standards, necessary for the complete processing of the application. Staff may consult with service providers regarding the planned unit development impacts.
- b.     The application shall be submitted by the legal owner(s) or authorized agent(s).
- c.     The planned unit development shall be reviewed as a conditional use according to the provisions of Section 41.

- 24.3 Submittal Requirements. All planned unit development applications shall include 10 copies of the following:
- a. Completed and signed conditional use permit application form.
  - b. All applicable fees.
  - c. A traffic study, if the proposed development will generate 500 or more vehicular trips per day.
  - d. A site plan showing:
    1. Property lines and easements, with dimensions and area.
    2. Topographic information.
    3. Existing vegetation, wildlife habitat, watercourses, wetlands, soil types and floodplains.
    4. Existing land uses.
    5. Location and dimensions of existing and proposed structures, utilities, trails and improvements.
    6. Land use designations.
    7. General circulation system, including streets and multi-use pathways.
    8. Number and types of dwelling units.
    9. Number of off-street parking places.
    10. General landscape plan.
    11. Amount and location of open space.
    12. Amount, location and use of common space.
    13. Proposed treatment of perimeter boundary of the planned unit development.
  - e. Proposed covenants and homeowner's association, documents which provide for the maintenance of common areas, appropriately limit the use of open space, assign the right to use common property to each lot owner and provide for association assessments.
  - f. Standards for principal and accessory uses:
    1. Minimum lot areas.
    2. Minimum lot width.
    3. Minimum yard setbacks.
    4. Maximum building heights.
    5. Maximum lot coverage.
  - g. If a planned unit development is not required to be reviewed as a subdivision, the applicant must submit information on water supply and

sewage treatment, public safety (including fire, police, emergency medical response and road access) and historic or archeological resources.

- h. Projected population.
- i. Proposed development schedule and phasing, if applicable.

24.4 Applicability: The PUD district may be combined with any other district except the PL District to provide superior design in development. Planned unit developments within the RC-SF-1 through RC-SF-100 districts shall comply with the requirements of Section 35 Residential Cluster Development.

24.5 Standards:

- a. The minimum size for a PUD shall be 10 acres.
- b. Planned unit developments may be composed of a single use or a mixture of uses, when consistent with the underlying district, and the GC/BS Plan.
- c. Structures in a planned unit development need not comply with the specific height and building size requirements of the underlying zoning classification.
- d. The site design shall consider the relationship of the site to the surrounding area. The site perimeter shall be designed to minimize undesirable impacts between the site and surrounding uses.
- e. The development shall comply with the applicable standards of Section 29 General Development Standards.
- f. Open space areas may either be held/owned perpetually in common by an owners' association, dedicated as a park, permanently preserved through a conservation easement, or a combination thereof. The application shall specify the means of maintaining common open space or of permanently preserving it. Open space owned in common by an owners' association shall comply with the criteria established under Section 35.11 (f) of these regulations.

24.6 Review Criteria:

The Planning and Zoning Commission must find that the applicant has demonstrated the following: (1) that the intent, purpose and standards of this Section have been met, and (2) that the planned unit development serves the public interest, or that the development plan for a planned unit development has met each of the following criteria:

- a. There is an appropriate relationship to the surrounding area. The buffer zone shall be landscaped, screened or protected by natural features, so that any adverse impacts on surrounding areas are minimized.
- b. When compared to a conventional development, the planned unit development maximizes the preservation of natural features, including trees, drainage areas, recreation, views, wildlife habitat and riparian areas.
- c. Multi-use trails have been designed in terms of safety, convenience and access to points of destination and/or historically used trails have been preserved.

*(Amended: County Commission Resolution No. 1997-81)*

*(Amended: County Commission Resolution No. 1998-25)*

24.7 Master Planned Unit Development (Master PUD). The intent of the Master PUD designation is to permit the approval of a master plan for individual parcels or a series of contiguous parcels greater than 40 acres in area. Once a Master PUD is approved, phased development may occur following the approval of a (regular) PUD for any and all subsequent phases. Approval of a Master PUD shall establish land uses, overall project densities, designation of development envelopes including maximum envelope densities, general location of roads and utilities, and amount and location of open space.

24.8 A Master PUD shall be designed in accordance with the following standards:

- a. A Master PUD shall permit all Permitted Uses identified in the underlying zoning or when otherwise compatible with the Gallatin Canyon/Big Sky Plan.
- b. A Master PUD may be composed of a single use or a mixture of uses.
- c. Site Size. The minimum size for a Master PUD will be 40 acres.
- d. Residential Density. Density shall not exceed densities established under Residential Districts per the particular residential types set forth in the zoning regulation.
- e. Design. The Master PUD shall be designed and developed in a manner compatible with and complementary to existing and proposed uses of the area. Further, the Master PUD shall relate harmoniously to the natural environment.



- f. Open Space. Wherever possible, the Master PUD should promote the preservation of open space.

24.9 Master PUD Review Procedure. The procedure for obtaining approval of a Master PUD shall be as follows:

- a. All applications for Master PUD permits shall be filed with the Planning and Zoning Commission accompanied by the required fee.
- b. The Planning and Zoning Commission shall cause to be made such investigation bearing on the application as will provide necessary information to assure that the action on each application is consistent with the intent and purpose of these regulations.
- c. Upon completion of the investigation, the Planning and Zoning Commission shall hold a public hearing to gather needed facts from all interested parties. The Planning and Zoning Commission may continue the hearing, if need be, to take additional information. Thereafter, the Planning and Zoning Commission shall either approve or deny the application. A letter shall be sent to the applicant stating either conditions of approval or reasons for denial.
- d. Notice of public hearing for Master PUD permits shall be published at least once 15 days prior to the hearing in a newspaper of general circulation within the County. Adjacent property owners shall be notified by certified mail.
- e. The Planning and Zoning Commission may make the granting of a Master PUD permit subject to reasonable limitations or conditions as it may deem necessary. However, since a PUD application (or Land Use Permit) must be granted for each subsequent incremental development proposed under the Master PUD, the Planning and Zoning Commission should determine compliance with the applicable Development Standards (sections 29 through 37) and Conditional Use Permits at the time of PUD application, rather than during review and approval of a Master PUD.

24.10 Master PUD Application Requirements.

- a. Preapplication Meeting. A minimum of 30 days prior to the date of application submittal, the applicant shall meet with a member of the Planning Staff to review the appropriate procedures, standards, documentation and any other requirements necessary for the complete processing of the applications. The Planning Staff may consult with service providers regarding the development impacts of the Master PUD.
- b. Submittal Requirements. All Master PUD applications shall include 10 copies of the following:

1. Completed and signed Master PUD application form.
2. All applicable fees.
3. A traffic study, if the proposed development will generate 500 or more vehicle trips per day.
4. A Master Site Plan showing:
  - Property lines and easements, with dimensions and area.
  - Topographic information.
  - Existing vegetation, wildlife habitat, watercourses, wetlands, soil types and floodplains.
  - Existing land uses.
  - Location and dimensions of existing structures, utilities, trails and improvements.
  - Generalized development-envelopes for proposed uses and structures.
  - Generalized locations of proposed utilities, trails and improvements.
  - General circulation system, including streets and other roads, and multi-use pathways.
  - Approximate number (minimum and maximum) and type of dwelling units for each development envelope. Total number of dwelling units shall not exceed maximum permitted under density regulations.
  - Statement of landscape concept.
  - Amount and location of open space.
  - Amount, general location and use of common space.
  - Proposed treatment of the perimeter boundary.
5. A statement of principles governing a subsequent property owners' association or similar entity responsible for the enforcement of conditions. Such principles should cover topics such as environmental stewardship, maintenance, limitations on use of open space, assessments, etc.
6. Submit a master environmental assessment which addresses the following at a generalized level of detail; environmental assessments for each subsequent regular PUD application will be governed by applicable PUD requirements.
  - Soils.
  - Geology.
  - Hydrology.
  - Wildlife.
  - Vegetation.

7. Preliminary information on water supply and sewage treatment, public safety (including fire protection, police, emergency medical response and road access) and historic or archeological resources.
  8. Proposed PUD phasing schedule.
  9. Show proof of compliance with any recorded covenants on the property.
- 24.11 Master PUD Approval. Approval of a Master PUD formally establishes permitted and designated land uses, overall project densities, locations of development envelopes (i.e. generalized development sites) including uses and maximum densities for each envelope, general location of roads and utilities, and amount and location of open space.

Approval of a Master PUD does not replace approval of Land Use Permits for construction. Once a Master PUD is approved, phased development may occur only through the approval of a (regular) PUD(s) for any and all development phases.

Approval of a Master PUD shall be granted for an initial period of six years. A Master PUD may be renewed and/or modified upon review and approval by the Planning and Zoning Commission.

Approval of a Master PUD, or any amendment to an approved Master PUD shall only be granted by the Planning and Zoning Commission when their findings are that:

- a. The Master PUD conforms to the objectives of the Gallatin Canyon/Big Sky Plan.
- b. The Master PUD meets all applicable mechanical requirements of these regulations, i.e., densities, and open space.
- c. Development under the Master PUD will not materially adversely affect nearby properties or their occupants.
- d. Development under the Master PUD will not materially adversely damage the natural environment and is consistent with the environmental values set forth in the Gallatin Canyon/Big Sky Plan.
- e. The Master PUD is based on a sufficient level of detail in the supporting information to ensure that the potential entitlements granted under the Master PUD is equivalent to the level of supporting information.

- f. A public hearing has been held, after legal notice has been given and the public has been given a chance to be heard upon the matter.

#### 24.12 Approval of a PUD prepared subsequent to a Master PUD

- a. Subsequent PUDs shall be consistent with the Master PUD.
- b. If subsequent PUD applications contain more detailed information that is contrary to findings set forth in support of the Master PUD or fail to demonstrate adequacy of mitigation measures, Land Use Permits may not be granted at the level of development indicated in the Master PUD. Such development indicated in the Master PUD, may however, be relocated within the Master PUD if supporting data so warrants.
- c. Review and approval of subsequent PUDs shall be restricted to the area delineated within the PUD unless density relocation is required. If density relocation is necessary, review and approval shall be limited only to the affected area.
- d. If a subsequent PUD requires modification of the Master PUD, the Master PUD shall be automatically modified upon approval of the subsequent PUD.

*(Amended: County Commission Resolution 1998-02)*

## SECTION 25 COMMUNITY FACILITIES (CF)

25.1 Intent: The intent of this district is to provide for public or semi-public community facilities.

25.2 Permitted Uses:

- a. Accessory apartments.
- b. Accessory uses and structures.
- c. Bus shelters and turnouts.
- d. Caretaker residence.
- e. Cemeteries.
- f. Community center buildings operated by a public agency or owners' association.
- g. Information centers.
- h. Open space.
- i. Parks, playgrounds and play fields.
- j. Picnic areas.
- k. Places of worship.
- l. Public/private safety facilities or services.
- m. Schools.
- n. Swimming pools.
- o. Tennis courts.
- p. Trails for non-motorized use.

25.3 Conditional Uses:

- a. Emergency helistops as an accessory to public-safety facilities.
- b. Maintenance facilities.
- c. Planned unit developments.
- d. Sewage treatment facilities.
- e. Utility service operation facilities.

25.4 Lot Area: None.

25.5 <u>Required Setbacks</u> :	Front:	25 feet
	Side:	15 feet
	Rear:	10 feet

25.6 <u>Maximum Building Height</u> :	Flat Roof:	30 feet
	Pitched Roof	33 feet

25.7 Additional Standards. See Development Standards.

*(Amended: County Commission Resolution 1997-81)*

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## SECTION 26 COMMUNITY RECREATION (CR)

26.1 Intent: The intent of this district is to provide for public or private recreation lands.

26.2 Permitted Uses:

- a. Golf courses.
- b. Information centers.
- c. Open space and agriculture.
- d. Parks, playgrounds and play fields.
- e. Picnic areas.
- f. Trails for non-motorized use.

26.3 Conditional Uses:

- a. Accessory uses and structures.
- b. Community center buildings operated by a public or non-profit agency or owners' association.
- c. Maintenance facilities.
- d. Other active recreation uses.
- e. Planned unit developments.
- f. Swimming pools.
- g. Tennis courts.
- h. Water wells, pipelines and pumphouses.

26.4 Lot Area: Minimum lot size is 20,000 square feet.

26.5 Required Setbacks:

Front:	25 feet
Side:	15 feet
Rear:	10 feet

26.6 Maximum Building Height:

Flat Roof	30 feet
Pitched Roof	35 feet

26.7 Additional Standards: See sections 29, 30, 31, 32, 36 through 46.

*(Amended: County Commission Resolution No. 1997-81)*

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## **SECTION 27            OPEN SPACE PRESERVE (OSP)**

- 27.1 Intent: The intent of this district is to provide for the preservation of the environmental quality, wildlife habitat and undeveloped character of designated open space lands.
- 27.2 Applicability: Land designated as OSP on the Official Zoning Map may be incorporated into a Planned Unit Development or Residential Cluster Development provided that the land is part of the same parcel and ownership, or contiguous parcels under the same ownership.
- 27.3 Permitted Uses:
- a. Crop farming and harvesting.
  - b. Grazing; the raising, feeding, managing and breeding of livestock, poultry, fish, birds and other animals which do not constitute a commercial feed operation.
  - c. Growing and harvesting of timber and other forest products and related activities, including logging and all operations incidental to and connected therewith.
  - d. Recreational trails for non-motorized use.

*(Amended: County Commission Resolution No. 1998-25)*

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## **SECTION 28            PUBLIC LANDS (PL)**

- 28.1 Intent. The intent of this district is to provide for those lands which are in public ownership and to provide for the preservation of the environmental quality, wildlife habitat and undeveloped character of these public lands.
- 28.2 Applicability. If public lands change to private ownership, the following restrictions of Section 28.3 shall apply until such time as the property owner requests and receives a change in zoning designation. If private lands change to public ownership, either the property owner or the Planning and Zoning Commission shall initiate a zone change to PL within 120 days.
- 28.3 Permitted Uses:
- a. Crop farming and harvesting.
  - b. Grazing; the raising, feeding, managing and breeding of livestock, poultry, fish, birds, and other animals which do not constitute a commercial feed operation.
  - c. Growing and harvesting of timber and other forest products and related activities, including logging and all operations incidental to and connected therewith.
  - d. Signs warning against trespass, shooting and hunting on the premises, without limitation as to number. Trail and informational signs. Signs shall meet all requirements of Section 36.
- 28.4 Conditional Uses:
- a. The development of natural resources, including gravel pits, mines and oil and gas wells.

*(Amended: County Commission Resolution No. 1997-81)*

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## SECTION 29 GENERAL DEVELOPMENT STANDARDS

The following standards supplement the specific district regulations set forth in this zoning regulation.

29.1 Accessory Buildings. This section does not apply to accessory buildings on commercially zoned lots. Accessory units must be located on the same parcel as an existing dwelling unit and cannot be subdivided from the parcel on which they are located. With the exception of accessory apartments, accessory units can either be attached or detached to the primary unit.

29.1.A. Non-residential Accessory Buildings shall meet the following requirements

1. The non-residential accessory building shall be similar in appearance and character to the existing principle use building. If the accessory building is screened from view of roads and neighboring properties, planning staff may approve accessory buildings that are not similar in appearance and character to the existing principle use building.
2. If located on a parcel smaller than 10 acres, one non-residential accessory structure up to 800 square feet (in addition to 1,000 square feet of garage space) is permitted per lot. Additional structures and/or additional square footage may be approved through the CUP process.
3. If located on a parcel greater than 10 acres, one non-residential accessory structure up to 2,000 square feet (in addition to 1,000 square feet of garage space) is permitted per lot. Additional structures and/or additional square footage may be approved through the CUP process.

29.1.B. Residential Accessory buildings or units (accessory apartments, caretaker residences and guest houses) shall meet the following specific requirements:

- a. Accessory apartments: An accessory apartment is an independent living facility added onto or created within a single-family dwelling unit.
  1. Accessory Apartments (attached only) are conditionally permitted in the following zoning districts: R-MF-6,500; R-SF-7,500; R-SF-11,000; RC-SF-1 RC-SF-2.5; RC-SF-5; TCR.  
Accessory Apartments (attached or detached) are permitted in the following zoning districts: CF, RC-SF-10; RC-SF-20; RC-SF-40; and RC-SF-100.
  2. The design of an accessory apartment shall be similar in appearance and character to the existing dwelling unit, accessory structure, or commercial structure.

3. A minimum of one on-site parking space shall be provided per accessory apartment.
4. There can be no more than one accessory apartment per parcel. If located on a parcel smaller than 10 acres, an accessory apartment is limited to 800 square feet. If the parcel is over 10 acres, a 1,500-square foot accessory apartment is permitted.

*(Amended: County Commission Resolution No. 2009-034)*

b. Caretaker residence: A caretaker residence is an independent living facility for a caretaker of a single-family dwelling unit. The following requirements pertain to caretaker residences:

1. Caretaker residences are permitted in the following districts: RC-SF-2.5; RC-SF-5; RC-SF-10; RC-SF-20; RC-SF-40; and RC-SF-100. They are conditionally permitted in the following zoning districts: R-SF-6,500; R-SF-7,500; R-SF-11,000; and RC-SF-1.
2. Caretaker residences cannot be leased to the general public.
3. The design of a caretaker residence shall be similar in appearance and character to the existing dwelling unit.
4. A minimum of one on-site parking space shall be provided per caretaker residence.
5. Only one caretaker residence per parcel is permitted. If located on a parcel smaller than 10 acres, a caretaker residence is limited to 800 square feet. If the parcel is over 10 acres, a 1,500-square-foot caretaker residence is permitted.

c. Guest house. A guest house is a second living unit specifically intended for use by guests or family members. The following requirements pertain to guest houses:

1. Guest houses are permitted in the following zoning districts: RC-SF-2.5; RC-SF-5; RC-SF-10; RC-SF-20; RC-SF-40; and RC-SF-100. They are conditionally permitted in the following zoning districts: R-SF-6,500; R-SF-7,500; R-SF-11,000; and RC-SF-1.
2. A guest house cannot be leased to the general public.
3. The design of a guest house shall be similar in appearance and character to the existing dwelling unit.
4. A minimum of one on-site parking space shall be provided per guest house.

5. There can be no more than one guest home per parcel. If located on a parcel smaller than 10 acres, a guest home is limited to 800 square feet. If the parcel is over 10 acres, a 1,500-square-foot guest home is permitted.

*(Amended: County Commission Resolution No. 2007-001).*

- 29.2 Air Quality Protection Requirement. In order to protect the air quality of the District, emission protection standards will be required for all subdivisions and conditional uses proposed after the adoption of this regulation. Every subdivision and conditional use permit located within the GC/BS Planning and Zoning District shall include the following emission standards in their covenants: all wood-burning devices shall meet EPA certification standards.
- 29.3 Animal-Proof Refuse Requirement. All refuse shall be stored in animal-proof containers or made unavailable to all domestic and wild animals.
- 29.4 Bed and Breakfast Inns. All bed and breakfast inns shall be subject to the following regulations:
  - a. The proprietor or operator shall reside in the bed and breakfast inn.
  - b. Meals shall be prepared from a central kitchen facility and served only to guests.
  - c. There shall be no alteration to the exterior of the structure which would detract from the residential character of the neighborhood. Any alteration to the exterior of the structure which is for the purpose of increasing the number of guest rooms shall be reviewed as a conditional use.
  - d. One parking space per guest room shall be provided, in addition to the two parking spaces required for a single family dwelling unit. All parking shall meet the off-street parking requirements of Section 34.
  - e. Additional standards in this regulation shall apply, including but not limited to stream setback, design and sign standards and landscaping.
- 29.5 Campgrounds: All campgrounds shall be subject to the following requirements:
  - a. The area of a lot, parcel or tract of land to be used shall contain not less than two acres.
  - b. No campsite shall be located within 50 feet of any boundary or property line of such lot, parcel, or tract of land, or within a distance of 100 feet from the edge of the right-of-way of any public road.
  - c. The density of campsites in a campground shall not exceed an average of 15 campsites per acre of the developed portion of the campground. The developed portion of the campground shall include campsites, service

roads, management office, storage facilities, sanitary facilities and caretaker residence.

- d. Each campsite shall have a minimum area of 1,800 square feet and shall include a parking space, outdoor grill/fire pit, picnic table and camping pad. The camping pad shall have no more than two-percent slope.
- e. Campsites designated for recreational vehicle use must be provided with a hook-up for potable water and electricity.
- f. Accessory uses within campgrounds may include a retail store for use by campground guests, and selling convenience foodstuffs, personal articles, minor camping supplies and souvenirs; an indoor laundry; free low-intensity recreational facilities such as table tennis and billiards and a television viewing and reading area.
- g. The entrance road to the campground must lead directly to the registration facility. All campsites must be located beyond the registration facility and have access to internal campground roads. Campground roads shall be built to the standards for roads within subdivisions created by rent or lease in the Gallatin County Subdivision Regulations.
- h. Special conditions, such as the provision of fencing or landscaping, or additional property line setbacks, may be required to safeguard the community interest and welfare.

29.6 Home Occupations: An occupation or profession which is incidental to and carried on in a dwelling or accessory building, or on the premises, by a member of the family residing within the dwelling, which is clearly secondary to the use of the property for residential purposes.

In general a home occupation is a use that is considered accessory to a dwelling unit, and conducted such that the average neighbor, under normal circumstances, would not be aware of its existence. The standards for home occupations included in this section are intended to insure compatibility with other permitted uses and with the residential character of the neighborhood. It is the intent of this section to eliminate as home occupations all uses except those that conform to the standards set forth in this section.

29.6.A The following standards apply to home occupations:

- 1. All home occupations shall be conducted entirely within the dwelling or accessory building except as listed below.
- 2. No home occupation shall occupy more than 1,000 square feet gross floor area unless a conditional use permit is obtained.
- 3. There shall be no display or evidence apparent from the exterior of the dwelling unit or accessory building that a home occupation is being conducted.



4. Employees shall be limited to residents of the dwelling unit and one additional employee.
5. The storage of any materials and/or solid waste associated with a home occupation shall be within an enclosed structure or effectively screened from view from neighboring homes and public ways by its location on the property, a fence or wall, or a densely planted landscape buffer. The home occupation shall not generate waste beyond that which is normally associated with a residential use.
6. There shall be no demand for parking beyond that which is normal to the neighborhood. In no case shall the home occupation cause more than two additional vehicles to be parked at any one time on or near the premises.
7. Home occupations shall not create noise of a type, duration, or intensity which, measured at the property line, exceeds 60 dBA between the hours of 7 a.m. and 9 p.m. No noise shall be created by the home occupation between the hours of 9 p.m. and 7 a.m. that is detectable to normal sensory perception at the property line.
8. Home occupations conducted on the premises but outside the dwelling or accessory buildings are limited to equestrian uses (the keeping, breeding and boarding of a reasonable number of horses), outfitting, cutting and storage of firewood and the boarding, breeding and raising of a reasonable number of pets, are only permitted on lots zoned RC-SF-2.5 and larger, and require a conditional use permit.

29.6.B Review Procedures for Home Occupations. Unless the home occupation requires a CUP, all property owners wishing to carry on a home occupation shall obtain written permission from the Zoning Enforcement Agent. Conducting a home occupation without approval of the Zoning Enforcement Agent shall be considered a violation of this regulation and be subject to the enforcement procedures contained herein. The following steps shall be followed:

1. The property owner shall request in writing a review of the proposed home occupation with an explanation of the home occupation addressing all of the standards listed above, and submit this request to the Zoning Enforcement Agent or their designee.
2. The LUP form shall be used, and the minor LUP fee shall apply (currently \$50).
3. The Zoning Enforcement Agent or designee shall respond in writing within 15 working days either approving, denying, or conditionally approving the request.

4. This procedure does not replace review by any other agency, and only reviews for compliance with this regulation

29.6.C Examples of uses:

1. Uses that typically qualify as home occupation standards are listed here (uses which may qualify as home occupations are not limited to those listed here, nor does inclusion in this list automatically qualify a use as a home occupation): accountant; architect; artist; attorney; author; consultant; dressmaking; individual musical instrument instruction; individual tutoring; insurance; millinery; and realtor.
2. Uses that typically do not qualify as home occupations are listed here (not all uses can be evaluated beforehand, and therefore some uses not included in this list may be denied approval; and inclusion in this list does not automatically preclude a use as a home occupation): auto repair; barbershop or beauty salon; carpentry work; contractor's offices, unless no construction activity or storage of materials and/or equipment occurs at the residence; dance instruction; dental offices; medical offices; painting of vehicles, trailers or boats; private schools with organized classes; upholstery.

*(Amended: County Commission Resolution No. 2007-001 on January 2, 2007)*

29.7 Lighting: All outdoor lighting fixtures shall be designed and constructed in such a manner to ensure that:

- a. Direct or reflected light is confined to the area needing it and that it is not directed off the property;
- b. All light sources are shielded;
- c. Any light sources or light lenses are not directly visible from beyond the boundary of the site;
- d. Light from any illuminated source shall be so shaded, shielded, or directed that the light intensity or brightness will not be objectionable to surrounding areas.
- e. Lighting fixtures shall be a down-type having 100 percent cutoff. The light rays may not be emitted by the installed fixture at angles above the horizontal plane, as may be certified by photometric test.
- f. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. The exception to this requirement is holiday lights with no commercial message.
- g. Beacon lights are not permitted.

29.8 Satellite Dish Antennas. Within the GC/BS Planning and Zoning District, ground-mounted satellite dish antennas up to 12 feet in diameter may be permitted subject to the following criteria:

- a. All installations must comply with all accessory use, yard, height, bulk and setback requirements specified within the district.
- b. All installations shall be located to prevent obstruction of the antenna's reception window from potential allowable development on adjoining properties.
- c. All installations shall employ, to the extent possible, materials and colors that blend with the surroundings.
- d. All installations must include screening treatments located along the antenna's non-reception window axes and low-level ornamental landscape treatments along the reception window axes of the antenna's base. Such treatments should completely enclose the antenna and shall be installed within six months of antenna installation.
- e. This section shall not apply to utility service operation facilities.

29.9 Temporary Occupancy. The intent of this section is to provide for temporary occupancy during the construction of a permanent dwelling, not to prohibit temporary visitors who may stay in a recreational vehicle (in accordance with item b).

- a. Temporary Occupancy While Constructing Permanent Dwelling. Temporary occupancy of mobile homes, recreational vehicles and accessory buildings may be allowed with a temporary occupancy permit issued upon application to the Zoning Enforcement Agent. Such occupancy shall be limited to a period not to exceed one year where all the following conditions are met:
  - 1. A land use permit for a permanent dwelling on the property has been issued.
  - 2. The temporary dwelling does not violate any valid existing deed restrictions.
  - 3. The temporary dwelling complies with all siting requirements outlined in the regulation.
- b. Recreational Structures. Within the GC/BS Zoning District, which is a recreation-oriented area, nothing contained in these regulations shall prohibit the use of temporary recreational dwellings such as motor homes, travel trailers, tents, and the like in designated recreational vehicle parks and campgrounds.

Recreational dwellings located within designated GC/BS Zoning District entryway corridors (Section 32.2) are subject to the following conditions:

1. That only one such structure shall be placed on any existing lot at one time.
  2. That no such structure shall occupy any lot for a period longer than three consecutive weeks, except for storage purposes.
  3. That any such structure must utilize a method of sewage disposal acceptable to the County Health Department.
- c. Temporary Dwelling for Mineral Extraction. Temporary dwellings for mineral extraction purposes may also be permitted by the Zoning Enforcement Agent, provided the temporary dwelling is occupied solely for mineral extraction purposes.
- d. Health Department Approval. Temporary dwellings shall not be moved on site nor utilized for occupancy until sewage disposal and water supply systems are installed that meet all State and County Health Department regulations.
- e. Procedure. Requests for temporary occupancy permit extensions shall be considered by the Zoning Enforcement Agent within 30 days of receipt of a complete application.
- f. Extensions. The Zoning Enforcement Agent may approve an extension of special permits for up to one year, if all exterior work on the permanent dwelling has been completed. Only one extension may be granted.
- g. Appeals. Appeals may be made according to Section 38 provisions.

29.10 Utilities. All utilities shall meet the following standards.

- a. Utilities, other than lines used for the distribution of electricity in new service areas as defined in Section 69-4-102 MCA, shall be installed underground unless a variance is granted pursuant to Section 44 of this ordinance.
- b. Lines used for the distribution of electricity in a new service area shall be installed underground, provided however, the Zoning Commission may grant a variance to allow overhead lines for the distribution of electricity when the applicant shows that the installation of underground distribution lines would be technically or economically infeasible as defined in Section 69-4-102, MCA, and Rule 38.5.1002, ARM, of the Montana Public Service Commission.
  1. The procedures of sections 44.3 and 44.4 of this regulation shall apply to a variance request under this subsection.

2. The criteria of sections 44.2 and 44.5 of this regulation shall not apply to a variance request under this subsection.
- c. If the Planning and Zoning Commission determines that the applicant requesting a variance to install overhead distribution lines for electricity fails to make the requisite showing to support the variance, the applicant may request that the Public Service Commission review the matter and issue an order concerning the installation of overhead distribution lines for electricity. The order of the Public Service Commission shall be conclusive. Upon presentation of an order issued by the Public Service Commission confirming the installation of overhead distribution lines for electricity, the Planning and Zoning Commission will grant the variance.

29.11 Wildfire Protection Requirement. In order to provide for public safety, fire protection standards will be required for all subdivisions and conditional uses proposed after the adoption of this regulation. Every subdivision and conditional use permit located within the Wildland Residential Interface area within the Gallatin Canyon/Big Sky Planning and Zoning District shall include the following fire safety measures in their covenants:

- a. All structures located in the Wildland Residential Interface shall use only Class A or B fire-rated roofing materials. Wood shakes or shingles can achieve a Class B rating by using a foil-faced or equivalent substrate or underlayment of non-combustible material and when the shakes are periodically treated with fire retardant. Follow manufacturer's treatment guidelines and re-treat as specified.
- b. Spark arrestor screens shall be placed on fireplace and wood stove chimneys.
- c. Smoke detectors shall be installed on each level of dwelling units.
- d. The vegetation reduction and clearance guidelines of the *Fire Protection Guidelines for Wildland Residential Interface Development* shall be met.

29.12 Helistops. All helistops shall be subject to the following requirements:

- a. Plans for the helistop shall be submitted to the Federal Aviation Administration's Airport District Office in Helena. The FAA shall conduct an Air Space Review of the helistop. The FAA shall approve the helistop prior to construction and operation.
- b. The helistop touchdown and lift-off area shall be constructed in compliance with all current and applicable FAA standards, including, but not limited to, standards for design, construction, establishment, maintenance, airspace approval, flight path approach, and any other standards deemed necessary for public health and safety. In addition, the Commission shall have the right to impose any conditions authorized through Section 41 of the GC/BS Zoning Regulation, provided such conditions are not in conflict with any rules and regulations of the FAA.

- c. Take-off and landing areas shall be no closer than fifty feet from any property line. Any administrative or operations building erected on a helistop site shall be located not closer than fifteen feet from any property line.
- d. Plans for the helistop shall be submitted to the local fire district officials for review and approval prior to operation.

*(Amended: County Commission Resolution No. 2007-001).*

29.13 Airports: All airports are subject to review, regulation and certification by state and federal authorities. Local regulations concern land use and site design issues only.

*(Amended: County Commission Resolution No. 1997-81)*

29.14 Artists Studio: work space used by artists or craftspeople, not to exceed 3000 square feet of floor area for the creation, preparation, display or sale of individually crafted artwork.

29.14.1 Artists studios in CC districts shall be subject to the following restrictions:

- a) Artist studios shall maintain and protect the air quality of the district by adhering to the air quality standards set forth in section 29.2 of the GC/BS zoning district regulations
- b) Artist studios shall not create noise of a type, duration or intensity which, measured at the property line, exceeds 75 dBA between the hours of 7 a.m. and 9 p.m. No noise shall be created between the hours of 9 p.m. and 7 a.m. that is detectable by normal sensory perception at the property line.
- c) The storage of any materials and/or solid waste associated with an artist studio shall be within an enclosed structure or effectively screened from view from neighboring homes and public ways by its location on the property, a fence or wall, or a densely planted landscape buffer

*(Amended: County Commission Resolution No. 2004-77)*

29.15 Employee Housing Dormitory

- 1. The names of the Employer(s) will be identified during the permitting process.
- 2. A designated property manager shall be identified during the permitting process to ensure that the premises are properly maintained. The name and number of the property manager as well as emergency service numbers shall be posted on all doors of rooms occupied by Employees. The exterior of the building and grounds shall be well maintained and tidy (i.e., maintain landscaping/grounds, building upkeep, etc.). Indoor areas must be kept clean and sanitary.
- 3. The following activities are prohibited on the premises:
  - a. Storage of inoperable vehicles
  - b. Auto repair and/or auto maintenance
  - c. Outdoor food storage
  - d. Storage and/or occupation of RV's, boats, and/or trailers.

4. Outdoor cooking is prohibited unless an Employer sets aside a designated area for Employees to cook and recreate outdoors.
5. Separate beds must be provided for each Employee. Mattresses on the floor are prohibited. There shall be a minimum floor area of 45 square feet for each Employee (excluding the common living/recreation area required in #6 below).
6. Employees must have access to a common living/recreation area either on or off the premises; such facilities will be identified in the CUP process.
7. Employees must have access to either an employee cafeteria plan or furnished kitchen either on or off the premises. Furnished kitchen includes both appliances and cookware.
8. Cooking in individual sleeping rooms is limited to a microwave. There shall be no hot plates, toasters, toaster ovens, open flames, or the like in individual sleeping rooms.
9. An Employee Housing Dormitory shall be located within walking distance to the place of employment (less than a half-mile), or the Employer shall identify a source of public or private transportation (i.e. bus or shuttle service) during the CUP process. In addition, the Employer shall provide on site parking at a ratio of one parking space per five Employees, and shall comply with all other applicable standards specified in Section 34.
10. Rooms shall be furnished by the Employer, including window coverings. Personal items are generally not provided.
11. Bathroom facilities must be provided on the premises. If individual rooms do not have a private bathroom with a shower, sink and toilet, then at least one shower, one sink, and one toilet must be provided for each gender for each five Employees.
12. The property manager shall enforce quiet hours between 11:00 pm and 7:00 am.
13. The Employer shall provide a communal dumpster facility that is screened and is sized commensurate to the size/capacity of the Employee Housing Dormitory.
14. The property manager and/or owner shall be responsible for ensuring compliance with these standards. Gallatin County may pursue available enforcement remedies, including revocation of the CUP and/or fines, in the event of repeated and unresolved violations.

*(Amended: County Commission Resolution No. 2008-002)*

#### 29.16 Employee Housing Commercial and Condominium

1. A designated property manager shall be identified during the permitting process to ensure that the premises are properly maintained. The name and number of the property manager as well as emergency service numbers shall be posted on all doors of rooms occupied by Employees. The exterior of the building and grounds shall be well maintained and tidy (i.e., maintain landscaping/grounds, building upkeep, etc.).
2. The following activities are prohibited on the premises:
  - a. Storage of inoperable vehicles
  - b. Auto repair and/or maintenance
  - c. Storage and/or occupation of RV's, boats, and/or trailers.
3. A minimum of one bathroom (inclusive of one shower, one sink, one toilet) must be provided for every two bedrooms.

4. For each apartment/condominium, a maximum occupancy shall be identified during the permitting process, with the maximum occupancy not to exceed two people per bedroom. Parking shall comply with the applicable zoning regulations.
5. The Employer shall enforce quiet hours between 11:00 pm and 7:00 am.
6. The Employer shall provide garbage facilities commensurate to the number of occupants.
7. The property manager and/or owner shall be responsible for ensuring compliance with these standards. Gallatin County may pursue available enforcement remedies, including revocation of permits and/or fines, in the event of repeated and unresolved violations.

*(Amended: County Commission Resolution No. 2008-002)*



## SECTION 30

## SITE DEVELOPMENT STANDARDS FOR STRUCTURES IN THE RC-SF-1 THROUGH 100 DISTRICTS

- 30.1 Applicability: These requirements shall apply to all structures that require a land use permit in the RC-SF-1; RC-SF-2.5; RC-SF-5; RC-SF-10; RC-SF-20; RC-SF-40; and RC-SF-100 districts. The requirements in this section may be waived if:
- a. Designated building sites have been previously approved through the subdivision review, conditional use, re-zoning or other process.
  - b. Upon written findings by the Planning Staff, accessory structures other than the principal structure(s) which have previously received site plan approval are consistent with an approved plan.
- 30.2 The purpose of the site development standards for a land use permit is to locate all structures in locations that consider the goals and objectives of the Big Sky Plan. The intent of the site planning is to:
- a. Locate compatible structures adjacent to each other.
  - b. Buffer incompatible structures from each other.
  - c. Protect viewsheds, wildlife habitat, open spaces, stream, corridors, topographic features, native vegetation and other environmental and aesthetic considerations.
  - d. Locate structures in direct proximity to that portion of the circulation system best suited to serve it.
  - e. Locate structures in a manner to minimize changes in existing topography and vegetation.
  - f. Locate structures in a manner which reflects the comprehensive plan.
  - g. Locate structures which maximize public safety, and minimize utility and capital improvement costs.
  - h. Organize density to place the largest number of people in closest proximity to their destination.
  - i. Wherever possible, to promote the acquisition and preservation of open space and its management and maintenance.
- 30.3 Submittal Requirements: All site plan submittals shall include the following:
- a. A professionally prepared, to-scale drawing showing:
    1. Property lines and easements.
    2. Topographic information.
    3. Existing vegetation, wildlife habitat, watercourses, wetlands, soil types and floodplains, as determined by qualified professionals from the respective fields.
    4. Existing land uses.
    5. Adjacent land uses and improvements including but not limited to driveways, utility lines and easements.
    6. Location and dimensions of existing and proposed structures, utilities, trails and improvements.
    7. Land use designations.

8. General circulation system, including streets and multi-use pathways.
9. Number and types of dwelling units.
10. Number of off-street parking places.
11. General landscape plan.
12. Amount and location of open space.
13. Proposed treatment of perimeter boundary of the development.

30.4 Site Development Standards: Site plan submittals shall be reviewed and approved based on consistency with the following standards:

a. On -Site

1. All structures in the floodplain shall comply with County Floodplain Regulations.
2. Minimize changes to natural terrain.
3. Preserve healthy, mature tree stands.
4. Make open space accessible to the user.
5. Protect and enhance existing wildlife use.
6. If permitted by land owners, link site open space to area-wide system.
7. Locate utilities to reflect site aesthetics as well as utility function.
8. Separate residential uses from major noise producing source, buffer from adjacent land uses. A buffer is open space and/or materials that create a visual and/or physical separation between the uses. *Examples of buffers are:*
  - a. *open space*
  - b. *trees and shrubs*
  - c. *fences*
  - d. *earth berms*
9. Restrict development on the following sensitive lands:
  - a. *steep slopes*
  - b. *stream corridors*
  - c. *wetlands*
  - d. *areas of unique vegetation or fore station*
  - e. *viewshed areas*

b. Off-Site - A site plan shall also take into consideration, where applicable, the following off-site factors:

1. Land Use: master plan, area development trends, adjacent zoning.
2. Circulation: accessibility levels, roadway network capacity, adjacent road operations.
3. Utilities: sewer system capacity, over-sizing needs, off-site drainage, CIP relationship.
4. Community: community form, open space linkages.
5. Public facilities/services: public safety, parks and trails, schools, libraries and television, etc.

(Amended: County Commission Resolution No. 1997-81)

- 31.1 Intent. The intent of this section is to protect the scenic character of the District, since that character is important to both the personal and economic lives of the residents. The mountain landscape can be impaired by sprawl and by development that does not take the existing landscape character into account. The loss of this character means a loss of a portion of the daily life of each resident. It also reduces the reason many tourists vacation in the area.
- 31.2 General Standards. The following standards shall apply to all commercial developments (sections 19-23).
- a. Dumpster and/or garbage can storage areas and satellite receivers shall be shielded from view.
  - b. Buildings or clusters of buildings having more than one tenant or use shall provide a design plan for the entire structure or project. The design plan must establish an integrated design, and must require the use of similar construction methods for all buildings, and compatible colors, building materials, scale, and size. The design plan shall include and require continuity between accessory structures, fences, walls and landscape features within the project. The design plan shall show that the site has been proposed for cluster development.
  - c. Individual lots, building, roads and parking shall be designed to minimize alteration of the natural features.
  - d. There shall be an integrated design among individual uses that are located on the same lot or parcel or that are part of a building or cluster of buildings.
  - e. Design standards shall be selected to be harmonious with a rural, mountain setting.
  - f. The development shall contain at least 20 percent open space. The open space shall be designed to be usable for its intended purpose and permanently protected. On-going maintenance, management and use must be included.
  - g. The use of natural wood siding, logs, natural stone and brick is encouraged.
  - h. A minimum roof pitch of 1:4 is required. Roofs shall be designed to prevent snow buildup and allow snow shedding which will avoid injury to people or property. Building design shall include weather protection which prevents water from dripping or snow from sliding onto adjacent properties or where pedestrians gather and circulate.

- i. Muted and subdued colors should be chosen that harmonize with the natural environment. Bold colors, if chosen, should be used as accents. Highly reflective surfaces that create bright glares are prohibited.
- j. Strip commercial development shall be prohibited.
- k. Pedestrian access shall be provided between individual uses and existing paths and from parking areas to individual uses and existing paths.
- l. The site's significant natural features, such as hillsides, mature trees, wildlife habitat, stream beds, rock outcroppings, significant views and landscaping shall be preserved.
- m. Individual lots, buildings and units shall be arranged and situated to relate to surrounding properties, to improve the view from and the view of buildings and to lessen road area.

31.3 Review Process for Commercial Development. The review of commercial developments shall be administered by the Planning Staff. Upon submittal of a complete application for a commercial development, the Planning Staff shall review the application for compliance with the requirements of this section and other applicable sections of this regulation. Reviews shall be completed within 45 days of receipt of a complete submittal. Appeals of staff decisions shall be considered in accordance with the procedures outlined in the Administration Section of this regulation.

31.4 Submittal Requirements. All commercial development applications shall include the following:

- a. Completed and signed application form.
- b. All applicable fees.
- c. A traffic study, if the proposed development will generate 500 or more vehicular trips per day.
- d. A site plan showing:
  - 1. Property lines and easements, with dimensions and area.
  - 2. Topographic information.
  - 3. Existing vegetation, wildlife habitat, watercourses, wetlands, soil types and floodplains.
  - 4. Existing land uses.
  - 5. Location and dimensions of existing and proposed structures, utilities, trails and improvements.
  - 6. Land use designations.
  - 7. General circulation system, including roads and multi-use pathways.
  - 8. Number, type and size of buildings.
  - 9. Number of off-street parking places.
  - 10. General landscape plan.
  - 11. Amount and location of open space.

12. Amount, location, purpose and use of common space.
13. Proposed treatment of perimeter boundary of the development.

31.5 The following additional standards shall apply to the Meadow Center District (Section 21):

- a. The Meadow Center district shall be pedestrian oriented and provide a mix of retail, business, residential and community uses.
- b. The design of the Meadow Center shall:
  1. Provide for the safe and comfortable movement of pedestrians;
  2. Emphasize places of congregation, crossroads and nodal points by the use of building location, outdoor furniture, public art and vegetation;
  3. Include highly defined corridors framed by buildings and vegetation;
  4. Establish the traditional storefront/sidewalk relationship, with buildings built right up to sidewalks to facilitate the opportunities for browsing, social interaction and people watching. Buildings shall be accessed primarily from sidewalks.
  5. Create strong visual points and counterpoints through the dense arrangement of buildings and vegetation.
  6. Provide adequate access for service delivery and emergency vehicles.

31.6 Review of Design Plan. For any lot on which the applicant proposes to erect one or more buildings, the applicant shall submit the information designated in Section 31.5 in accordance with the following:

- a. If the property to be developed is subject to rezoning or conditional use permit, submit the required information as set forth in Section 31.5 as part of the zoning or conditional use permit application; or
- b. If the property to be developed is not subject to rezoning or conditional use permit requirements, submit the required information to the Zoning Enforcement Agent.

31.7 Required Information.

- a. Site plan at a scale of 1":20' or greater indicating the location of all existing and proposed structures, site access, parking, pedestrian and vehicular circulation and site improvements.
- b. Location of existing structures on adjacent property.
- c. Landscape plan drawn at the same scale as the site plan indicating all new landscape material to be added, revegetation plans for all disturbed areas of the site, areas to be irrigated, all trees to be removed during construction and other site improvements such as patios, public spaces, walkways, fences, etc.

- d. Cross section(s) of the property and proposed building(s) adequately establishing the natural grade, finished grade, slope of land, slope of proposed access and grades to roads.
- e. All exterior elevations.
- f. Type and color of exterior materials and roofing.
- g. Design guidelines and renderings showing design themes, construction methods, colors, building materials, scale and size.
- h. Indication of direction of snow slide from roof.
- i. Drip line of all buildings.
- j. Location and type of exterior lighting.
- k. Location of dumpster and/or garbage can storage areas and satellite receivers, including dimensions and screening materials.

31.8 Consent. The design plan shall be signed by all owners or their authorized agents in such form as the Zoning Enforcement Agent shall require.

31.9 Procedures. The design plan shall be included in any development plan, site plan, planned unit development plan, variance application, conditional use permit application, land use permit application, or any other official plan required by this regulation for the proposed development and shall be processed simultaneously with such other plan.

31.10 Amendment. An approved design plan may be amended by either the Planning and Zoning Commission or Zoning Enforcement Agent, whichever had granted the original approval. Approval shall be provided only if the amendment conforms with all requirements of the regulation in effect at the time the application for amendment is verified as complete by the Zoning Enforcement Agent.

31.11 Binding Effect. After approval of a design plan, no building shall be erected, altered, moved, painted, or maintained, except in conformance with such plan, and such plan may be enforced in the same way as any provision of this regulation. In case of any conflict between the provisions of a design plan and any other provision of this regulation, the regulation shall control.

*(Amended: County Commission Resolution No. 1997-81)*

## **SECTION 31.B      GUIDELINES AND DESIGN STANDARDS FOR TOWN CENTER COMMERCIAL DISTRICT**

- 31.B.1 Intent: The intent of this section is to establish minimum guidelines and standards to ensure high quality design, overall coherence, and a character appropriate to the commercial buildings and other structures in the Big Sky Town Center Commercial District.
- 31 .B.2 Relationship to Section 31., Guidelines and Design Standards for Commercial Development. This Section, Section 31.B, supercedes and replaces Section 31 in its entirety as concerns the Town Center Commercial District.
- 31.B.3 Building Types: Specific standards shall govern the design of the following Building Types. The location of building types within the Town Center Commercial District will be determined at the time of a land use permit application.
- a. General Commercial
  - b. Public/Quasi-Public
  - c. Lodging
- 31.B.4. Building Height: The Gallatin Canyon/Big Sky Zoning Regulation building height requirements outlined in Table 21.B.1 shall apply to all commercial buildings.
- (i) For that portion of a building with parapet walls or mansard roofs, and a flat roof system\*: The building height shall be calculated by measuring the vertical distance from the highest point of the parapet wall or mansard roof to the average elevation of the four most varied finished grades adjacent to the structure, including the highest and the lowest. Non-occupiable elements such as elevator extensions, staircase enclosures, roof access hatches, chimneys, cupolas, roof-mounted mechanical or electrical equipment, or other architectural elements or screens may extend up to six (6) feet above the maximum building height for all buildings in the Commercial District, and shall be setback at least six (6) feet from the street side roof edge.
- \* - Flat Roof System: Shall be defined as a roof having a slope from 0:12 to 1:12.
- 31.B.5 General Standards: The following standards shall apply to all developments in the Big Sky Town Center Commercial District:
- a. Building character, form, and scale should be appropriate to the mountain west setting embodied in the greater Big Sky area.
  - b. All pedestrian entries shall provide weather protection (roof, canopy, arcade, etc), and shall be clearly delineated, readily visible and easily accessible.
  - c. If required by applicable Building Codes, buildings of greater than one story shall provide elevator access to the upper floor(s).
  - d. Adequate access for service delivery and emergency vehicles shall be provided.
  - e. Dumpster and/or garbage can storage areas shall be enclosed and

- shielded from view.
- f. Roof-mounted mechanical and/or electrical equipment shall be shielded from view.
- g. Satellite receivers shall be screened from view per Section 29.8.d.
- h. Building and roof design should include weather protection which prevents water from dripping or snow from sliding onto pedestrian areas and adjacent properties.
- i. Exterior building colors throughout the Town Center shall emphasize earth tones fitting with the natural, surrounding environment. Trim and other accentuating details may be finished in brighter or contrasting color schemes to add compatible interest.
- j. Provide for safe and comfortable movement of pedestrians.
- k. Emphasize places of congregation, crossroads, and nodal points by the use of building location, outdoor site furnishings, public art, and/or landscaping.

31 .B.6 General Standards: Specific Building Types: The following standards shall apply to the development of specific building types in the Town Center Commercial District:

a. General Commercial

- Building facades shall contain the basic architectural features and unique character of a turn-of-the-century small town, with central public spaces and a main street.
- Wherever possible, building facades shall form a continuous frontage along block faces and establish a traditional storefront/sidewalk relationship.
- Buildings extending along block-fronts shall provide at least one entry at the parking lot elevation. This entry shall be clearly delineated, readily visible and easily accessible and may open into a pedestrian arcade linking the parking lot behind to the street in front.
- Specialty commercial (i.e. grocery, movie theater, etc.) and recreational uses (i.e. tennis, handball, basketball, etc.) should: contain defining architectural features or elements that serve to identify the type of use; be appropriate to the setting of the Big Sky area; provide sufficient wall and roof articulation to avoid the domination of large, blank exterior forms.

b. Public/Quasi-Public: Uses such as the following shall be considered Public or Quasi-Public uses: Theater (such as a performing arts theater), civic uses (such as a library, community offices or meeting rooms, city hall, post office, teen activity center, transit building, emergency services), medical facility (including essential community medical and accessory services, {i.e. pharmacy, rehabilitation facilities, etc}), but does not include private practice offices or private medical facilities).

- Building facades and roofs should contain the basic architectural features and other architectural elements that serve to define the unique character of historic civic architecture.
- Buildings should generally be a combination of one and two stories in



height and should incorporate elements that symbolize the public nature of the building (i.e. flags, monuments, plaques, clock towers, etc.)

c. Lodging

- Building facades and roofs should contain the basic architectural scale, features and elements that define the building or building complex as visitor-serving lodging appropriate to the setting of the Big Sky area.
- Building facades should provide sufficient articulation to avoid the domination of large exterior walls.
- Entries should include covered areas for vehicular drop-off and pick-up of pedestrians.
- Attention should be given to guest use of exterior spaces, such as courtyards, forecourts, landscaped areas and water features such as casting ponds.

31 .B.7 Submittal Requirements. All applications for Town Center Commercial developments shall include the following:

- a. Completed and signed County Land Use Permit application form.
- b. All applicable fees.
- c. A traffic study, if the proposed development will generate 500 or more vehicle trips per day.
- d. Town Center Owners' Association Design and Land Use Permit.
- e. A Site Plan showing:
  1. Property lines and easements, with dimensions and areas.
  2. Topographic information.
  3. Existing vegetation, wildlife habitat, watercourses, wetlands, soil types and floodplains.
  4. Existing land uses.
  5. Location and dimensions of existing and proposed structures, utilities, trails and improvements.
  6. Land use designations.
  7. Amount and location of open space.
  8. Amount, location, purpose and use of common space.
  9. Proposed treatment of perimeter boundary of the development.

31.B.8 Review Process: Review of Town Center Commercial developments shall be administered by the Planning Staff. Upon submittal of a complete Application for a commercial development, the Planning Staff shall review the Application for compliance with the requirements of this section and other applicable sections of the Zoning Regulation. Reviews shall be completed within 45 days of receipt of a complete submittal.

31.B.9 Consent: The Application shall be signed by all owners or their authorized agents.

31.B.10 Procedures. The Application shall be included in any application for a Planned

Unit Development, Variance, Conditional Use Permit, Land Use Permit, or any other application required by the Zoning Regulation for the proposed development.

The Planning Staff shall render a final decision on the Application. Unless appealed, Staff's decision on the Application is binding upon, and not subject to further review by, the Planning and Zoning Commission. No interlocutory appeal of Staff's decision is permitted pending the issuance of Staff report containing recommendations on the Application.

If Staff's decision on the Application is appealed, the appeal, together with Staff's recommendations on the Application, shall be heard at the same time, and the Planning and Zoning Commission shall make a final decision on the Application. Otherwise, a hearing shall be conducted on, and the Planning and Zoning Commission shall make a final decision regarding, the Application and include therein the Staff's decision on the Application. Appeals of the final decision of the Planning and Zoning Commission may be taken to the district court within thirty (30) days after such decision as provided by M.C.A. Section 76-2-110.

- 31.B.11 Amendment: The applicant may amend an approved Application subject to approval of the amendment by the Planning Staff. Approval shall be provided only if the amendment conforms with all requirements of the regulation in effect at the time the application for amendment is verified as complete by the Planning Staff.
- 31.B.12 Binding Effect: After approval of the Application, no building shall be erected, altered, moved, reconstructed, or painted, except in conformance with such plan, and such plan may be enforced in the same way as any provision of this regulation. In case of any conflict between provisions of an Application and any other provision of this regulation, the regulation shall control.

*(Amended: County Commission Resolution No. 2000-18 on April 11, 2000.)*

*(Amended: County Commission Resolution No. 2004-145 on November 9, 2004)*

*(Amended: County Commission Resolution No. 2006-084 on August 29, 2006)*

## SECTION 32 ENTRY CORRIDOR AND VIEW PROTECTION

- 32.1 Intent. The intent of this overlay district is to enhance the visual quality and identity of the GC/BS Planning and Zoning District by providing guidelines for development along designated entry corridors and protecting key views from encroachment by development.
- 32.2 Applicability of Entry Corridor Guidelines. The provisions of this section shall apply to requests for land use permits on the following parcels of land:
- a. Any parcel of land located adjacent to or within 200 feet of Montana 64 (Lone Mountain Spur Road) between the intersection of US 191 and the Gallatin County/Madison County line.
  - b. Any parcel of land located adjacent to or within 200 feet of US Highway 191 between the south boundary line of the Zoning District and a point 2,000 feet north of the intersection of US 191 and Montana 64 (Lone Mountain Spur Road).
  - c. Exceptions. For property with frontage on both US 191 and Montana 64, the setback standards on Montana 64 shall be reduced by 75 percent.
  - d. No entry corridor setbacks shall be applied which are larger than 50 percent of the parcel depth or width, of a residentially zoned parcel existing as of July 30, 1996. The Zoning Enforcement Agent shall review a land use permit application for such a property and may issue the permit when he or she finds that the maximum feasible entry corridor view mitigation has been provided by appropriate landscaping; and the resultant land use permit is consistent with the GC/BS Plan.

*(Amended: County Commissioners Resolution No. 1996-61)*

- 32.3 Review Process for Land Use Permits Along Entry Corridors. The following material shall be submitted in conjunction with a land use permit application on land located in an entry corridor:
- a. Survey of the subject parcel prepared by a registered land surveyor. The survey shall indicate property boundaries and the right-of-way line of adjacent entry corridor roadways.
  - b. Site plan at a scale of 1":20' or greater indicating the locations of all proposed structures, site access, parking, pedestrian and vehicular circulation and site improvements.
  - c. Landscape plan drawn at the same scale as the site plan indicating all new landscape material to be added, revegetation plans for all disturbed areas of the site, areas to be irrigated, all trees to be removed during construction and other site improvements such as patios, public spaces, walkways, fences, etc.



- d. Proposed project lighting plan indicating all exterior lighting.

32.4 Setback Standards for Land Use Permits Along Entry Corridors. All buildings proposed by a land use permit application shall comply with the following setback standards:

- a. All buildings shall maintain a minimum 100-foot setback from designated entry corridor roadways. The intent of the entry corridor setback requirement is to establish a uniform 100-foot-wide landscaped buffer between buildings and the entry corridor roadway. Right-of-way widths vary along designated entry corridors. In order to establish uniform setback distances, setback requirements for individual properties will vary depending upon the width of adjacent rights-of-way. Entry corridor setbacks for properties adjacent to the following four rights-of-way widths are as follows:
  - 1. The minimum setback for buildings adjacent to 60-foot-wide rights-of-ways shall be 100 feet.
  - 2. The minimum setback for buildings adjacent to 80-foot-wide rights-of-ways shall be 90 feet.
  - 3. The minimum setback for buildings adjacent to 120-foot-wide rights-of-ways shall be 70 feet.
  - 4. The minimum setback for buildings adjacent to 160-foot-wide rights-of-ways shall be 50 feet.
- b. Calculation of Other Setbacks: The following methodology shall be used to determine setback requirements for right-of-way widths other than those indicated above:

The potential road width of 60 feet (four travel lanes at 12 feet and two six-foot shoulders) shall be used for all calculations. The portion of the right-of-way to be considered as a part of the entry corridor setback area is determined by subtracting half of the potential road width (30 feet) from half of the right-of-way width. The resultant figure is then subtracted from 100 to determine the entry corridor setback requirement.
- c. Exception. For property with frontage on both U.S. 191 and Montana 64, the setback standards on Montana 64 shall be reduced by 75 percent.

32.5 Design Standards for Land Use Permits Along Entry Corridors. The following design standards shall be used by the Planning Staff to evaluate land use permit applications. It shall be the burden of the applicant to demonstrate that proposed development complies with the following standards, that one or more of the standards are not applicable, or that a practical solution consistent with the purpose of this section has been achieved. The Planning Staff shall act on land use permit applications by either approving, approving with conditions or denying the application based compliance with the following standards:

- a. Proposed landscape plans shall be designed to buffer the visual impact of building and site improvements from the designated entry corridor and adjacent properties. Landscape plans may include a combination of enhancements to existing native vegetation, the development of formal landscape areas, new plant materials, and berming, but in all cases shall include the introduction of trees, shrubs and ground covers designed to highlight proposed entries, screen parking areas, buffer the visual impact of buildings and enhance the landscape quality of the entry corridor. In order to minimize irrigation requirements, the use of native ground covers and drought tolerant plant materials indigenous to the Zoning District are encouraged.
- b. The following minimum landscape materials shall be required within the entry corridor setback area for any commercial development or multi-family residential development: eight coniferous or evergreen trees, four deciduous trees and eight shrubs for every 100 lineal feet of frontage along the entry corridor. Landscape standards for parcels with less than 100 feet of frontage or any portion of a parcel's entry corridor frontage that is less than 100 feet shall be pro-rated based on the standards above. Minimum plant sizes shall be a minimum of six feet for coniferous or evergreen trees, two inch caliper for deciduous trees and five gallon for shrubs. In the event that berming, setback distance in excess of 100 feet, or other design alternatives are proposed to enhance the visual quality of the entry corridor setback area, the Planning Staff may approve land use permits with fewer landscape materials than required by the standards above.
- c. In order to minimize the visibility of parking areas from entry corridors, parking areas should be located to the rear or sides of buildings. Parking areas may be located in the front of buildings and may encroach into the required entry corridor setback area. However, parking area encroachments shall not exceed 50 percent of the required setback distance. When parking areas are proposed within the entry corridor setback area, minimum required landscape materials described above shall increase by 10 percent for every 10 feet of encroachment into the setback area and the use of berming to screen parking areas from the entry corridor shall be required.

- d. Any surface parking lot in excess of 15 spaces shall include interior landscape islands equal to 10 percent of the parking lot area. A landscape border not less than 15 feet wide shall be provided around the perimeter of all parking areas. All parking lot landscape areas shall be landscaped with a combination of trees, shrubs and ground covers.
- e. In order to minimize vehicular traffic congestion, the development of shared vehicular access ways between commercial development projects are encouraged.
- f. Trash facilities, loading docks and exterior storage areas shall not encroach into the required entry corridor setback area and shall be screened from view from the designated entry corridor.

32.6 Variances to Design Standards for Land Use Permits Along Entry Corridors. Variances to sections 32.4 and 32.5 shall be considered by the Planning and Zoning Commission in accordance with the procedures outlined in the variance section of the GC/BS Zoning Regulation. Prior to approving a variance request, the Planning and Zoning Commission shall make one or more of the following findings:

- a. Compliance with one or more of the design standards would deprive an owner of the reasonable use of his/her property.
- b. There are no practical alternatives to locating buildings within the required setback area.
- c. The proposed variance will result in greater compliance with the overall intent of Section 32 by preserving the visual quality and character of the entry corridor in a manner that would not otherwise be possible by the strict adherence to sections 32.4 and 32.5.

32.7 Applicability of View Corridor Guidelines. The provisions of this section shall apply to any application for a land use permit located on land within designated view corridors. Designated view corridors include:

- a. The Soldier's Chapel View Corridor. The purpose of the Soldier's Chapel View Corridor is to maintain a view of Soldier's Chapel with an unobstructed background view of Lone Mountain as viewed from the driveway leading up to the chapel. It is recognized that development may occur on land behind the chapel and between the chapel and Lone Mountain. The Soldier's Chapel View Corridor is intended to ensure that new development located proximate to the chapel does not project above the roof line of the chapel in a manner that diminishes the view of the chapel and the long-range view of Lone Mountain.

Designated view corridors are indicated on photographs and are on record with the Gallatin County Planning Department.

32.8 Standards for Land Use Permit Applications Within View Corridors. The following material shall be submitted in conjunction with a land use permit application on land located within a designated view corridor:

- a. Site plan at a scale of 1":20' or greater indicating the location of all proposed structures, site access, grading and other site improvements.
- b. Building elevations indicating the heights of proposed roof ridges.
- c. Models, photo overlays, sketches or other material deemed necessary by the staff to determine whether proposed development will encroach into the designated view corridor.

32.9 Design Standards for Land Use Permits Within View Corridors. All development and site modifications proposed by the land use permit application shall comply with the following design standards:

- a. Soldier's Chapel View Corridor. No part of any structure located within 1,000 horizontal feet of Soldier's Chapel shall encroach above the Soldier's Chapel View Corridor line as indicated on the official view corridor photograph on record with the Gallatin County Planning Department.

32.10 Variances to Design Standards for Land Use Permits Within View Corridors. Variances to Section 32.9, Design Standards for Land Use Permits Within View Corridors shall be considered by the Planning and Zoning Commission in accordance with the procedures outlined in the Variance Section of the Gallatin Canyon/Big Sky Zoning Regulation.

- a. Submittal material for proposed encroachments into a designated view corridor shall include the following:
  1. Written summary of the proposed encroachment.
  2. Overlays of the proposed development drawn on the photograph of the existing view corridor indicating the extent of the proposed encroachment.
- b. No building encroachment into a designated view corridor shall be permitted unless the applicant demonstrates that the encroachment meets all of the following criteria:
  1. The literal enforcement of Section 32.9 Design Standards for Land Use Permits Within View Corridors would preclude the reasonable development of the affected land.



2. The proposed encroachment is no more than necessary to allow for the reasonable development of the affected land.
3. The proposed encroachment would not diminish the value nor compromise the original purpose of the preserved view.

32.11 Criteria for Establishing View Corridors. Proposals to establish new view corridors may be initiated by the Gallatin County Board of County Commissioners, the Planning and Zoning Commission, the Gallatin County Planning Staff or any resident of the GC/BS Zoning District. Such applications shall be considered by the Planning and Zoning Commission in accordance with the procedures outlined in the GC/BS Regulation for amending this regulation.

- a. Submittal material required for the review of proposed new view corridors shall include the following:
  1. A written summary of the proposed view corridor and a photograph of the proposed view corridor and a reference point from which the photograph was taken.
  2. The names and addresses of property owners whose development potential may be affected by the proposed view corridor.
- b. No new view corridor shall be established until it is demonstrated by clear and convincing evidence that the proposed view corridor meets all of the following criteria:
  1. The proposed view corridor will preserve a view from a public pedestrian area, public way, or public space within the Zoning District which perpetuates the mountain heritage and character of the GC/BS area.
  2. The proposed view corridor protects or enhances the GC/BS area's attraction to residents, guests and property owners.
  3. The proposed view corridor protects a view which is commonly recognized and has inherent qualities which make it valuable and distinguish it from other more common views.

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## SECTION 33

## HILLSIDE AND RIDGELINE DEVELOPMENT

- 33.1 Intent. The intent of this overlay district is to preserve the natural character, visual quality and aesthetic value of ridgelines and hillsides and to protect the residents and guests of GC/BS from the potential hazards of unregulated development on hillsides.
- 33.2 Applicability of Hillside and Ridgeline Guidelines. The provisions of this section shall apply to any application for a land use permit or subdivision on land that meets either of the following two conditions: (1) Any portion of the land includes slopes in excess of 15 percent; (2) Land that is located on or within 100 vertical feet of the elevation of any prominent ridgeline. Lands that meet either of these two provisions are herein referred to as hillside land or ridgeline land, respectively.
- 33.3 Prominent Ridgeline Defined. A prominent ridgeline shall be defined as any ridgeline, as viewed from any point along a designated major roadway corridor, which creates a silhouette with the sky. Currently designated major roadway corridors are U.S. Highway 191, Montana Highway 64 (Lone Mountain Trail) and Beaver Creek Road. Since significant portions of the GC/BS Zoning District are presently undeveloped, it is not possible to designate all major roadway corridors at this time. Other potential major roadway corridors from which to identify prominent ridgelines, whether existing or proposed at the time a subdivision or land use permit application is submitted, may be designated by the planning staff during the development review process. These new major roadway corridors shall then establish view points from which to identify prominent ridgelines.
- 33.4 Determination of Prominent Ridgeline. The determination of prominent ridgelines and any major roadway corridor in addition to currently designated major roadways shall be made by the Planning Staff. The presence of a prominent ridgeline or the designation of additional major roadways may influence the planning and design of a development proposal. For this reason, applicants are strongly encouraged to request such determinations prior to submitting subdivision pre-application plans or land use permit applications.
- a. A request for a staff determination of prominent ridgelines or additional major roadway corridors shall be made by the applicant and shall be accompanied by a survey, U.S.G.S. Topographic Map or other graphic information as necessary to indicate the general location of the proposed development. The Planning Staff shall make their determination based on material submitted by the applicant and a site visit to the proposed development site. In the event that prominent ridgelines or additional major roadway corridors are identified by the staff, such ridgelines or roadway corridors shall be indicated on the graphic material submitted by the applicant. Appeals of any staff decisions may be made in accordance with procedures outlined in the GC/BS Zoning Regulation.

- 33.5 Slope Defined. Slope shall mean the inclination of land determined by dividing the horizontal run of the slope into the vertical rise of the same slope and converting the resulting figure into a percentage. The presence of slopes in excess of 15 percent shall be determined based on a slope analysis of the subject parcel completed by the applicant. The presence of slopes in excess of 15 percent may influence the planning and design of a development proposal. For this reason, applicants are strongly encouraged to complete a slope analysis of the subject parcel prior to submitting subdivision sketch plan applications or land use permit applications.
- 33.6 Setbacks on Hillside Property: The required setbacks for existing parcels as of July 30, 1996 within any given district may be waived if it is determined by the Zoning Enforcement Agent that no suitable building site is available due to the presence of slopes in excess of 15 percent. Any request for waive of a required setback must be accompanied by proof of slopes in excess of 15 percent and justification provided by the applicant that all reasonable efforts have been made to design a structure which complies with setback requirements.  
(Amended: County Commission Resolution No. 1997-81)
- 33.7 Application for Land Use Permits on Hillside and Ridgeline Land. The following review process, design standards, review criteria and variance provisions shall apply for all land use permit applications for hillside or ridgeline land.
- a. Review Process for Land Use Permits on Hillside and Ridgeline Land. The review of land use permit applications will be administered by the Gallatin County Planning Staff in accordance with the Land Use Permits section of the GC/BS Zoning Regulation. Upon submittal of a land use permit application on hillside or ridgeline land, the Planning Staff shall review the application for compliance with design standards and review criteria outlined in this section. Appeals of staff decisions shall be considered in accordance with the procedures outlined in the Administration section of the GC/BS Zoning Regulation.
  - b. The following material shall be submitted in conjunction with a land use permit application on a hillside or ridgeline land:
    - 1. Topographic survey of the subject lot prepared by a registered land surveyor. The topographic survey shall be drawn at a scale of 1":20' or greater and the contours shall be indicated at two-foot intervals. The survey shall also indicate easements, existing drainages, mature stands of trees with eight inch or greater caliper and approved building envelope (if applicable).
    - 2. Slope analysis indicating the percent slope of the portion of the lot on which all development and site improvements are located.

3. Soils analysis indicating the physical properties of soil types and any limitation ratings, and any special design or construction methods proposed to mitigate soil suitability conditions.
  4. Site plan at a scale of 1":20' or greater indicating the location of all proposed structures, site access, retaining walls and other site improvements.
  5. Building elevations indicating exterior wall materials and colors, roof material and color, heights of roof ridges, and existing grades, and proposed finished grades around all structures.
  6. Construction/site disturbance plan indicating proposed limits of construction, methods for protecting existing vegetation and locations for storage of construction material and equipment, trailers, dumpsters and sanitary facilities.
  7. Landscape plan drawn at the same scale as the site plan indicating all new landscape material to be added, revegetation plans for all disturbed areas of the site, areas to be irrigated, all trees to be removed during construction and other site improvements such as patios, walkways, fences, etc.
  8. Grading and drainage plan drawn at the same scale as the site plan indicating all proposed regrading, cross-sections of all proposed cuts and fills, heights of all proposed retaining walls, and proposed site drainage.
  9. Erosion control plan indicating all proposed measures to control surface water run-off, retain eroded soil material during construction and permanently stabilize disturbed slopes and drainage features upon completion of construction.
  10. Photo overlays or other visual tools to demonstrate the visual impact of the proposed development.
- c. The extent of the areas indicated on the topographic survey, slope analysis, landscape plan, grading and drainage plan, erosion control plan and construction plan may be limited to only those portions of the site where development and site improvements are proposed. At a minimum, such plans shall include portions of the site within 100 feet of all proposed development and site improvements and any other portion of the site as may be necessary to evaluate the land use permit.
- d. If warranted by the nature of the proposed development, the presence of unique site characteristics or other considerations, the Planning Staff may modify or waive any of the submittal requirements listed above.

33.8 Design Standards for Land Use on Hillside Land. All development and site modifications proposed on the land use permit application on hillside land shall comply with each of the following design standards:

- a. No buildings shall be located on portions of a lot in excess of 25 percent slope.
- b. Building height shall not exceed 33 feet on buildings with a sloping roof and 30 feet for buildings with a flat roof, as measured vertically from the average elevation of the proposed finished grade at the front of a building to the highest point of a flat roof, the deck line of a mansard roof and the mean height between the eaves and ridge for gable, hip and gambrel roofs. (*Amended: County Commission Resolution No. 1996-62.*)
- c. All buildings shall be located within an approved building envelope (if applicable).

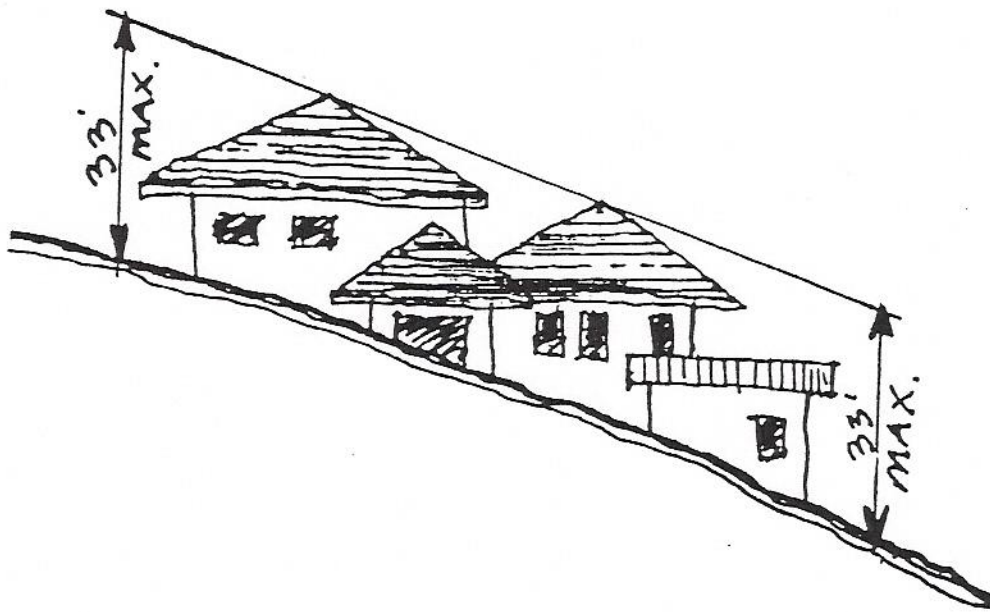
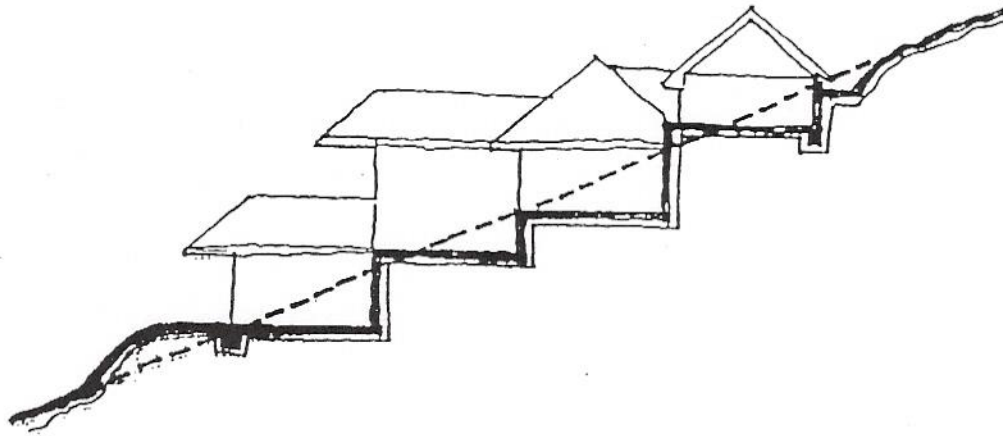


Fig. 1- *Building height regulations encourage buildings to follow the natural slope of a lot.*

33.9 Review Criteria for Land Use Permits on Hillside Land. The following design criteria shall be used by the Planning Staff to evaluate land use permit applications on hillside land. It shall be the burden of the applicant to demonstrate that proposed development complies with the following criteria, that one or more of the criteria are not applicable, or that a practical solution consistent with the purpose of this section has been achieved. The Planning Staff shall act on applications by either approving, approving with conditions or denying the application based on compliance with the following criteria:

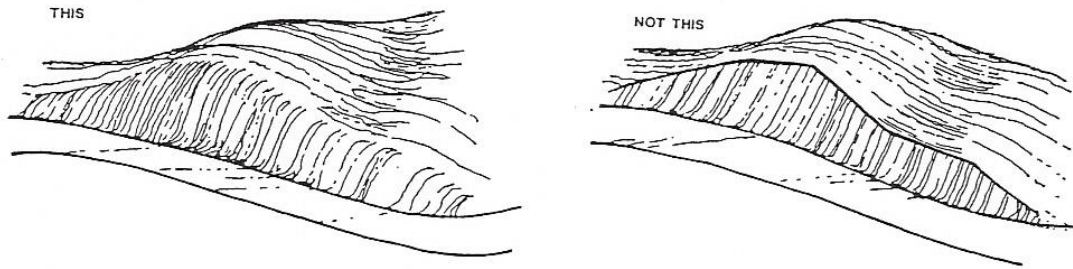
- a. Buildings, site improvements and driveways shall be sited and designed to minimize the loss of vegetation and the need for site grading, cuts and fills, and retaining walls.
- b. Buildings shall be designed to bench into hillsides and building level changes shall be accomplished by stepping the building with the natural contours of the site.
- c. Existing vegetation and natural topography of a site shall be incorporated into the design and siting of buildings, site improvements and driveways in order to minimize their visibility from roadways within the District and to integrate improvements with the natural characteristics of the site.



*Fig. 2 - Building should be "benched" into the hillside.*

- d. Site grading shall be designed to blend with the natural contours of the site by feathering all cuts and fills into existing natural grades. Overlot grading of a site to create a flat building site is not permitted.





*Fig. 3- Grading should feather back to existing grades.*

- e. If warranted by site conditions, the use of retaining walls is encouraged in order to minimize grading, preserve existing plant materials and reduce overall site disturbance. Retaining walls visible from roadways or adjacent properties shall not exceed six feet in height. Retaining cuts in excess of six feet shall be accomplished by two or more retaining walls. In such cases, retaining walls shall be separated by a minimum of two feet in order to allow for the introduction of landscape materials.
- f. Driveways shall follow existing contours to the extent possible and be designed to minimize the loss of vegetation and the need for grading and cuts and fills. Appropriate driveway standards may vary depending on site specific considerations. Generally, driveways should not exceed 10 percent slope and 14 feet in width. In order to facilitate revegetation, cut and fill slopes should be regraded to no more than a 2:1 slope. Regraded slopes in excess of 2:1 slope may be approved if steeper slopes will minimize site disturbance and preserve existing vegetation. Soils and slope stability analyses shall be required for all driveways located on slopes in excess of 25 percent and such driveways shall be designed by a licensed engineer.

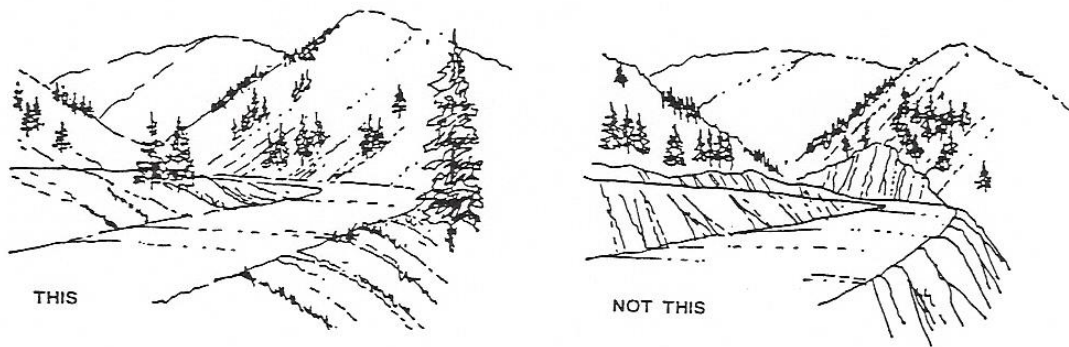


Fig. 4 - *Driveway design should minimize the need for cuts and fills.*

- g. The color of exterior walls, roofs and retaining walls shall be limited to muted earthtones. Such colors should be selected to blend buildings and improvements with the terrain and vegetation of the surrounding landscape. All roofs shall be constructed of non-reflective materials.
- h. Exterior lighting shall include horizontal cutoffs and be designed and located in a manner that minimizes the impact of direct light sources on adjacent properties, rights-of-way and roadways. Lighting shall be limited to low-level down lighting necessary to illuminate driveways, walks and entryways for safety and security purposes. Uplighting of trees or structures is not permitted.
- i. The revegetation and erosion control plans shall provide appropriate measures for short-term soil stabilization and control of site drainage and the long-term restoration of disturbed areas of the site.
- j. Structures and site improvements shall be designed in accordance with soils and slope suitability analyses (if applicable).
- k. The construction/site disturbance plan shall limit site disturbance to an area of the site no larger than necessary to develop the site in accordance with approved plans and shall include on-site measures necessary to limit disturbance of the site and protect existing vegetation.

33.10 Design Standards for Land Use Permits on Ridgeline Land. All development and site modifications proposed by the land use permit application on ridgeline land shall comply with each of the following design standards:

- a. No part of any structure or site improvement shall break the silhouette created by the prominent ridgeline and the sky. For the purposes of these guidelines, a canopy of existing trees located on the top of a ridgeline shall be considered a part of the prominent ridgeline.



*Fig 5. - Buildings shall be located below prominent ridgelines.*

- b. Building height shall not exceed 33 feet on buildings with a sloping roof and 30 feet for buildings with a flat roof as measured vertically from average elevation of the existing grade or finished grade (whichever is the more restrictive), at the front of a building to the highest point of a flat roof, the deck line of a mansard roof and the mean height between eaves and ridge for gable, hip and gambrel roofs (refer to Figure 1).
- c. All buildings shall be located within an approved building envelope (if applicable).

**33.11 Review Criteria for Land Use Permits on Ridgeline Land.** The following design criteria shall be used by the Planning Staff to evaluate applications on ridgeline land. It shall be the burden of the applicant to demonstrate that proposed development complies with the following criteria, that one or more of the criteria are not applicable, or that a practical solution consistent with the purpose of this section has been achieved. The planning staff shall act on applications by either approving, approving with conditions or denying the application based on compliance with the following criteria:

- a. Buildings, site improvements and driveways shall be sited and designed to minimize the loss of vegetation and the need for site grading, cuts and fills and retaining walls.

- b. Buildings shall be designed to bench into hillsides and building level changes shall be accomplished by stepping the building with the natural contours of the site (refer to Figure 2).
- c. Existing vegetation and natural topography of a site shall be incorporated into the design and siting of buildings, site improvements and driveways in order to minimize their visibility from roadways within the District and to integrate improvements with the natural characteristics of the site.
- d. Site grading shall be designed to blend with the natural contours of the site by feathering all cuts and fills into existing natural grades. Overlot grading of a site to create a flat building site is not permitted (refer to Figure 3).
- e. If warranted by site conditions, the use of retaining walls are encouraged in order to minimize grading, preserve existing plant materials and reduce overall site disturbance. Retaining walls visible from roadways or adjacent properties shall not exceed six feet in height. Retaining cuts in excess of six feet shall be accomplished by two or more retaining walls. In such cases, retaining walls shall be separated by a minimum of two feet in order to allow for the introduction of landscape materials.
- f. Driveways shall follow existing contours to the extent possible and be designed to minimize the loss of vegetation and the need for grading and cuts and fills. Appropriate driveway standards may vary depending on site specific considerations. Generally, driveways should not exceed 10 percent slope and 14 feet in width. In order to facilitate revegetation, cut and fill slopes should be regraded to no more than a 2:1 slope. Regraded slopes in excess of 2:1 slope may be approved if steeper slopes will minimize site disturbance and preserve existing vegetation. Soils and slope stability analyses shall be required for all driveways located on slopes in excess of 25 percent and such driveways shall be designed by a licensed engineer (refer to Figure 4).
- g. The color of exterior walls, roofs and retaining walls shall be limited to muted earthtones. Such colors should be selected to blend buildings and improvements with the terrain and vegetation of the surrounding landscape. All roofs shall be constructed of non-reflective materials.
- h. Exterior lighting shall include horizontal cutoffs and be designed and located in a manner that minimizes the impact of direct light sources on adjacent properties, rights-of-way and roadways. Lighting shall be limited to low-level down lighting necessary to illuminate driveways, walks and entryways for safety and security purposes. Uplighting of trees or structures is not permitted.

- i. The revegetation and erosion control plans shall provide appropriate measures for short-term soil stabilization and control of site drainage and the long-term restoration of disturbed areas of the site.
- j. Structures and site improvements shall be designed in accordance with soils and slope suitability analyses (if applicable).
- k. The construction/site disturbance plan shall limit site disturbance to an area of the site no larger than necessary to develop the site in accordance with approved plans and shall include on-site measures necessary to limit disturbance of the site and protect existing vegetation.

33.12 Variances for Land Use Permits on Hillside Land. Variances to Section 33.7 Design Standards for Land Use Permits on Hillside Land shall be considered by the Commission in accordance with the procedures outlined in the Variance Section of the Zoning Regulation. Prior to approving a variance request, the Planning and Zoning Commission shall make one or more of the following findings:

- a. Compliance with one or more of the design standards would deprive an owner of the reasonable use of its property;
- b. There are no practical alternatives to locating buildings on portions of the site that exceed 25-percent slope. Prior to approving a variance to build on portions of a site in excess of 25 percent, the applicant shall demonstrate that soil and or geologic conditions of the site are such that the proposed development does not pose a danger to the public health and safety, or that any potential hazard can be reduced to a reasonable level with corrective engineering or other mitigating measures. All building foundations, retaining walls, roads and utilities shall be designed by a licensed engineer in accordance with the recommendations of soil and/or geotechnical studies.
- c. The proposed variance will result in greater compliance with the overall intent of Section 33.1 by preserving the natural character, visual quality and aesthetic value of hillsides in a manner that would not otherwise be possible by the strict adherence to Section 33.7 Design Standards for Land Use Permits on Hillside Land.
- d. Additions or remodels of existing structures on hillside land shall be exempt from the provisions of Section 33 provided the square footage of such addition does not exceed 50 percent of the square footage of the existing structure.

33.13 Variances for Land Use Permits on Ridgeline Land. Variances to Section 33.9 Design Standards for Land Use Permits on Ridgeline Land shall be considered by the Planning and Zoning Commission in accordance with the procedures outlined in the Variance Section of the Gallatin Canyon/Big Sky Zoning Regulation. Prior to approving a variance request, the Planning and Zoning Commission shall make one or more of the following findings:

- a. Compliance with one or more of the design standards would deprive an owner of the reasonable use of his/her property.
- b. There are no practical alternatives to building on a prominent ridgeline. In the event that a building is approved on top of a prominent ridgeline, such building shall not exceed 24 feet in height.
- c. The proposed variance will result in greater compliance with the overall intent of Section 33.1 by preserving the natural character, visual quality and aesthetic value of ridgelines in a manner that would not otherwise be possible by the strict adherence to Section 33.9, Design Standards.
- d. Additions or remodels of existing structures on hillside or ridgeline lots shall be exempt from the provisions of Section 33.10, Land Use Permits on Ridgeline Land, provided the square footage of such addition does not exceed 50 percent of the square footage of the existing structure.

33.14 Proposed Subdivision of Hillside and Ridgeline Land. The design standards, review criteria and variance and exemption provisions of this section shall apply to all minor and major subdivision applications on hillside or ridgeline land.

- a. Applicability of Zoning Requirements to Subdivision Process. Design standards and review criteria outlined in this section shall be used by the County Commission in conjunction with applicable subdivision review criteria to evaluate the proposed subdivision of hillside or ridgeline land. In the event of any conflicts between these design standards and subdivision review criteria, the most restrictive provision shall apply.

Submittal material shall include all material required by the subdivision regulations for minor or major subdivisions and photo overlays, visual simulations, field staking or other visual techniques to demonstrate the location and visual impact of proposed development sites.

If warranted by the nature of the proposed development, the presence of unique site characteristics or other considerations, the Planning Staff may modify or waive any of the submittal requirements listed above.

33.15 Design Standards for the Subdivision of Hillside and Ridgeline Land. Subdivision applications on hillside land shall comply with each of the following design standards:

- a. Building envelopes shall be required for all proposed lots. The building envelope defines the portion of each lot within which all improvements must be located. Improvements shall include all buildings and garages. Decks, patios, terraces, retaining walls, fences, recreational facilities and site access may be located outside of the building envelope.
- b. No portion of a building envelope shall exceed 25-percent slope.
- c. Any portion of a site in excess of 40-percent slope shall not be considered in the calculation of allowable density on land zoned or proposed to be zoned for densities greater than one unit per 20 acres.
- d. Building envelopes on ridgelines shall be sited such that the future development of the building envelope can be accomplished without breaking the natural silhouette created by the prominent ridgeline and the sky. For the purposes of these guidelines, a canopy of existing trees located on the top of a ridgeline shall be considered a part of the prominent ridgeline.

33.16 Review Criteria for the Subdivision of Hillside and Ridgeline Land. The following design criteria shall be used by the Board of County Commissioners for subdivision applications on hillside land. It shall be the burden of the applicant to demonstrate that the proposed PUD and subdivision complies with each of the following criteria, that one or more of the criteria are not applicable, or that a practical solution consistent with the purpose of this section has been achieved.

- a. Building envelopes shall be sited to utilize existing vegetation and natural topography of the site in order to integrate the building with the site and to minimize the visibility of the building from US Highway 191 and Montana Highway 64.
- b. Building envelopes shall be sited such that future access to the envelope can be integrated with the natural characteristics of the site in a manner that will require a minimal amount of site grading, cuts and fills, retaining walls and loss of vegetation.

33.17 Variances to 25 Percent Slope Limitation for New Building Envelopes on Hillside Land. It is the intention of these regulations that no portions of new building envelopes exceed 25 percent slope. However, if properly sited, designed and engineered, construction on slopes between 25 to 40 percent can be accomplished while mitigating potentially adverse visual and safety impacts commonly associated with development on steep slopes. The purpose of this section is to establish criteria for reviewing proposed subdivisions that include building envelopes with slopes between 25 to 40 percent.

Review procedures and submittal requirements for variance requests to the 25 percent slope limitation for proposed building envelopes shall be as outlined in Section 44 and this section. The burden of proof shall be on the applicant to demonstrate that the proposed building envelopes are in compliance with all applicable guidelines and development standards. The following submittal material shall also be provided by the applicant:

- a. Specific design guidelines and standards proposed by the applicant that demonstrate how the proposed development of said building envelopes will comply with all applicable review criteria.

If warranted by the nature of the proposed development, the presence of unique site characteristics or other considerations, the Planning Staff may modify or waive any of the submittal requirements listed above.

- b. **Design Standards.** In addition to design standards and review criteria outlined in the subdivision regulations, subdivision applications for variances to the 25-percent slope limitation for proposed building envelopes on hillside land shall comply with each of the following design standards:

1. Building envelopes shall be required for all proposed lots. The building envelope defines the portion of each lot within which all improvements must be located. Improvements shall include all buildings and garages. Decks, patios, terraces, retaining walls, fences, recreational facilities and site access may be located outside of the building envelope.
2. No portion of the proposed building envelope shall be located on slopes in excess of 40 percent and no access or site improvements shall be permitted on portions of a site that exceed 40 percent slope.
3. All building foundations, retaining walls, roads and utilities shall be designed by a licensed engineer in accordance with applicable soil and/or geotechnical studies.

- c. Review Criteria. The following review criteria shall be used by the Planning and Zoning Commission for evaluating proposed variances to the 25-percent slope limitation for new building envelopes:

1. Submittal material and design guidelines and standards prepared by the applicant shall clearly demonstrate that locating building envelopes on land with slopes in excess of 25 percent will lessen the visual impacts and improve the overall environmental and aesthetic quality of the proposed subdivision in a manner that would not otherwise be possible by the strict adherence to Section 34.14, Design Standards.



2. Soils analysis and geotechnical studies shall clearly demonstrate that the development of the proposed subdivision and lots does not pose a danger to the public health and safety or that any potential hazard can be reduced to a reasonable level with corrective engineering or other mitigating measures, and that any necessary mitigating measures shall be incorporated into the development of the subdivision and the subsequent development of proposed building envelopes.
3. Building envelopes are sited to utilize existing vegetation and natural topography of the site in order to integrate the building with the site and to minimize the visibility of the building from US Highway 191 and Montana Highway 64.
4. Building envelopes are sited such that future access to the envelope can be integrated with the natural characteristics of the site in a manner that will require a minimal amount of site grading, cuts and fills, retaining walls and loss of vegetation.

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## SECTION 34            PARKING

- 34.1 Purpose. The purpose of these standards is to prevent traffic congestion by requiring provision of adequate off-street parking and loading areas.
- 34.2 Off-Street Parking Required. All uses and buildings shall provide the minimum number of off-street parking spaces required by Table 2. Parking areas shall be properly graded and drained paved surfaces and parking spaces shall be at least nine feet by 20 feet in size for parking of any motor vehicle. A stormwater runoff management plan will be required for any parking area of more than 20,000 square feet in size. *(Amended: County Commission Resolution No. 1997-81)*
- 34.3 Off-Street Parking Requirements for Uses Not Listed. The classification of uses and the off-street parking requirements for uses not listed in Table 2 shall be determined by the Zoning Enforcement Agent. Any person who disputes a decision of the Zoning Enforcement Agent may request a review of that decision using the appeals procedure of Section 38.3.
- 34.4 Location of Off-Street Parking. Off-street parking shall be located on the same lot or within 600 feet of the building or use served, except for spaces serving a dwelling unit, which shall be within 100 feet of the dwelling unit.
- 34.5 Shared Parking. Two or more uses may share parking where:
- a. The total number of spaces provided is not less than the sum of spaces required for all buildings or uses served, and
  - b. A contract providing for shared parking for a period of at least 20 years is executed before any approvals are obtained.
- 34.6 Reduction of Required Parking. The Zoning Enforcement Agent may authorize a reduction in the number of required parking spaces only if the following conditions are met: (1) Parking will be shared by two or more uses; (2) An application shall be submitted which proves there will no substantial conflict in the principal operating hours of the proposes uses.
- 34.7 Passenger Loading Areas. Day care centers, schools, and places for public assembly shall provide at least one safe, properly signed off-street passenger loading area.
- 34.8 Freight Loading Areas. Commercial and industrial buildings and uses shall provide one safe, properly signed off-street freight loading area for each 10,000 square feet of gross floor and/or outdoor storage area. Off-street freight loading areas shall be on the same lot or parcel and under the same ownership as the building or use they serve, be designed to accommodate the largest vehicle that may reasonably be anticipated, and have the following minimum dimensions:
- a. *Vertical clearance of 14 feet.*
  - b. *Width of 12 feet.*
  - c. *Depth or length of 35 feet.*

No vehicle parked in an off-street freight loading area shall extend into a public right-of-way.

- 34.9 Access to Off-Street Parking and Loading Areas. Properly graded and drained driveways shall be provided for safe access to off-street parking and loading areas, including the off-street parking for single-family dwellings. No parking or loading area shall create a situation in which vehicles are required to back onto a public road. Parking areas for single-family dwellings with access to local and collector roads are exempt from this requirement.
- 34.10 Circulation in Off-Street Parking Areas. The pattern of circulation within parking areas shall be designed to provide safe and efficient access to individual parking spaces, protect pedestrians moving through the parking area, and facilitate safe access to public streets.
- a. Minimum aisle widths shall be as follows:
    - Two way circulation and 90° parking: 24 feet.*
    - One way circulation and 60° parking: 18 feet.*
    - One way circulation and 45° parking: 15 feet.*
    - One way circulation and 30° parking: 13 feet.*
  - b. Where one-way circulation is used, directional signs shall be installed at all access points to the parking area.
  - c. No parking area shall be designed so that circulation from one portion of the area to another relies on a public street.
  - d. A separate pedestrian pathway or sidewalk shall be provided through parking areas to the destination. The path shall be clearly designated by trees and other plantings.
  - e. All parking areas shall also provide adequate snow storage and removal space. Snow storage areas shall be located away from sidewalks, driveways, entries and exits.
  - f. In any parking area which includes more than 15 spaces, 10 percent of all parking area shall be used for internal landscaping. A landscape border not less than 15 feet wide shall be provided around the perimeter of all parking areas. Parking areas shall be designed so that a landscaped area separates every 10 spaces. Total parking areas shall be broken into sections that do not exceed 40 cars each. Each section shall be separated by landscaping and traffic circulation lanes. Landscaped areas shall be designed to accommodate snow piles without damage to plants and trees. All parking area landscape areas shall be landscaped with a combination of trees, shrubs and ground covers.

- g. Parking and landscape plans shall be submitted in accordance with the requirements of Section 29.

**Table Two: Minimum Parking Space Standards**

Land Use	Parking Spaces
Dwellings	2 Per Unit
Lodging Places	1 Per Unit Plus 1
Theaters and Places of Assembly	.33 per Seat
Elementary and Junior High Schools	1 per Classroom Plus 1
Rest Homes and Similar Uses	2 per Bed

Land Use	Parking Spaces per 1,000 Feet of Gross Floor Area
Eating, Drinking Places	15
Financial, Real Estate, Insurance	3
Beauty and Barber Services	6
Other Personal Services, Misc. Services	3
Health Services	5
Professional Services	3
Shopping Centers	4
Mixed Office Uses	3
Building Materials, Farm Equipment, and Furniture	1
Hardware, Apparel, Misc Retail Uses	3
General Merchandise, Groceries	4

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## SECTION 34.11     PARKING

34.11     Town Center Commercial District: The provisions of Sections 34.1 through 34.10 and the provisions set forth in this Section (34.11) shall apply to the Town Center Commercial District. The Town Center's County-approved Parking Regulation, Management Plan and Ordinance supercedes Section 34 of the Zoning Regulation, in its entirety, except where that document refers to a specific section of Section 34 of the Zoning Regulation (see also Section 34.11.a.8 below). In these cases, that specific section of Section 34 shall apply. Where the provisions set forth in this Section conflict with any other parking provisions, they shall supercede such other provisions.

a. Parking district. A parking district or similar community services district shall be created for the Town Center Commercial District. All parking within the Town Center Commercial District shall be administered and enforced by the Town Center Parking District. The Parking District shall provide, among other things, for the following:

- (1) Execution and administration of contractual arrangements related to parking, shared parking, and reduction in required parking including contractual arrangements linking land uses to the provision of required parking spaces
- (2) To ensure that there is adequate and accessible parking for each building, including the number and location of handicap-accessible spaces.
- (3) Formulation and enforcement of parking regulations.
- (4) To provide a unified approach to the construction, maintenance, and management of parking within the Big Sky Town Center Commercial District.
- (5) To ensure that at any given time the supply of parking spaces satisfies the total demand for parking spaces
- (6) Preparation and adoption of a Parking Regulation, Management Plan, and Ordinance that should include, but not be limited to, procedures for determining shared parking and reduction of required parking.
- (7) To provide surface parking lots and related improvements that meet the minimum needs of the Big Sky Town Center Commercial District without building large areas of underutilized parking.
- (8) To ensure compliance with all minimum parking standards, including minimum parking supply, for the Town Center Commercial District, as set forth in the Gallatin Canyon Big Sky Zoning Regulations.

b. On-street Parking. On-street parking spaces shall be included in the

calculation of the supply of parking spaces. In calculating parking requirements for individual buildings, on-street parking spaces shall be included only if they are not previously allocated to another building or use.

- c. Pedestrian Circulation. Separate pedestrian pathways shall not be required within parking lots due to the practical considerations concerning snow plowing and snow removal. (supercedes 34.10.d)
- d. Landscaping. Reference the Big Sky Town Center Design Standards and Guidelines manual.
- e. Freight Loading Area. Freight loading docks and service entrances shall be located within rear or side yards only, and shall be screened from adjacent uses and property. The size of the loading dock or area shall be designed to accommodate the largest vehicle that may reasonably be anticipated. A building developer may choose to install more than one freight loading area serving the building if the demand so warrants.

*(Amended: County Commission Resolution No. 2000-18 on April 11, 2000.)*

*(Amended: County Commission Resolution No. 2004-145 on November 9, 2004.)*

*(Amended: County Commission Resolution No. 2006-084 on August 29, 2006.)*



## SECTION 35 RESIDENTIAL CLUSTER DEVELOPMENT (RCD)

35.1 Applicability: These requirements shall apply to the subdivision of all property that is zoned RC-SF-1, RC-SF-2.5, RC-SF-5, RC-SF-10, RC-SF-20, RC-SF-40 and RC-SF-100.

35.2 Intent: The intent of this district is to:

- a. Establish a procedure for development which will result in improved living, working, and recreational environments.
- b. Promote an efficient and cost effective pattern of development by placing the development on one or more portions of a parcel to permanently protect other portions of the site.
- c. Encourage ingenuity and originality in total area and individual site design.
- d. Conserve, as permanent open space, important natural features, wildlife habitat, water resources, and scenic areas for the benefit of present and future residents.
- e. Provide buffers between adjoining properties and provide better protection of natural and scenic resources than would otherwise be provided by a conventional development plan.
- f. Create and preserve usable open space to serve recreational, scenic and public service needs.
- g. Preserve important site vegetation, outstanding natural topography and geologic features, while preventing soil erosion.
- h. Enhance the visual impact of development and the environment.
- i. Provide a density bonus as an incentive for increased open space.
- j. Permit flexibility of design for the placement of buildings, circulation and off-street parking areas in order to promote the most appropriate and efficient use of land.

*(Amended: County Commission Resolution No. 1998-25)*

35.3 General: To meet the intent of the Residential Cluster Development District:

- a. Variations in lot areas are permitted.
- b. Procedures are established to assure adequate maintenance and restricted use of open spaces for the benefit of the residents of the properties and for dedication to public use.
- c. Procedures are established to protect existing and potential development adjoining proposed cluster developments.

- 35.4 Maximum Allowable Units: To calculate the allowable units, divide the number of acres in the parcel by the zoning designation (i.e., RC-SF-2.5, RC-SF-5, etc.) as shown on the officially adopted Zoning Map, plus any bonus units as approved by the Planning and Zoning Commission in accordance with Section 35.12.

If the number of allowable units results in a fractional number, the fractional number shall be rounded-off to the nearest whole number to determine the allowable units for the parcel. Any density bonus percentages shall be applied to the whole number determinations of allowable units of the parcel. If the density bonus units result in a fractional number, that number shall be rounded-off to the nearest whole number to determine the total bonus units allowed within the parcel.

For the purpose of rounding-off, .50 and above shall be rounded up to the next highest number, and .49 and below shall be rounded down to the next lowest number.

- 35.5 Minimum Lot Size: As approved through the cluster review process.

- 35.6 Permitted Uses: As set forth in the underlying zoning category.

- 35.7 Conditional Uses: As set forth in the underlying zoning category.

- 35.8 Required Setbacks: As required in the underlying zoning category.

- 35.9 Minimum Lot Width: As approved through the cluster review process.

- 35.10 Mandatory Standards for Clustered Developments:

- a. The development shall contain at least 40 percent open space. The open space shall be designed to be usable for its intended purpose and permanently protected and shall meet the requirements for open space set forth in Section 35.11.
- b. Residences shall be serviced by an interior road network; dwellings shall not front on or gain access from arterial roads.
- c. Individual lots, buildings, streets and parking areas shall be designed to minimize alteration of the natural site features.
- d. Open space areas shall include wildlife habitat and irreplaceable natural features such as, but not limited to, stream beds, significant stands of trees, rock outcroppings and significant views.
- e. Open space intended for a recreation or public use shall be accessible to pedestrians.

- f. Individual lots, buildings and units shall be arranged and situated to relate to surrounding properties, to improve the view from and of buildings and to minimize road area.

#### 35.11 Mandatory Standards for Open Space.

- a. Compliance with Plan: The Wildlife Habitat and Trail Maps adopted as a part of the GC/BS Plan shall be used to determine the appropriate location of open space and trails.
- b. Open Space Uses: Open space shall be preserved and maintained for one or more of the following uses which shall be noted on the final plat: passive and active recreation, wildlife habitat and protection of scenic, unique or important natural features.
- c. Preservation in Perpetuity: All open space land shall be preserved in perpetuity by either of the following methods:
  - 1. Open space parcel.
  - 2. Dedication as a park according to the requirements of the Gallatin County Subdivision Regulations.
  - 3. A perpetual conservation easement restricting development of the open land and allowing only open space uses as provided above. The conservation easement shall meet all requirements set forth in 76-6-201, MCA, et.seq. The conservation easement shall be granted to an organization acceptable to the Zoning Commission.
- d. Open Space Qualification. Open space areas shall not include rights-of-way, parking areas, setbacks, yards and land within individually owned lots.
- e. Ownership of Open Space Land: Open space land may be owned in common by an owner's association (OA), dedicated to the County or State, transferred to a non-profit organization acceptable to the Zoning Commission, held in private ownership or held in such other form of ownership as the Planning and Zoning Commission finds adequate to fulfill the intent set forth in Section 35.1. The appropriate form of ownership shall be based upon the purpose of the open space reservation.
- f. Standards for Owners Associations: If the open space land is owned in common by an OA, such OA shall be established in accordance with the following:
  - 1. Membership shall be mandatory for each owner, who must be required by recorded covenants and restrictions to pay fees to the OA for taxes, insurance, and maintenance of common open space, private roads and other common facilities.

2. The OA must be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities and private roads.
3. The assessment levied by the OA must be able to become a lien on the property.
4. The OA shall be responsible to adjust the assessment to meet changed needs.
5. Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against individual owners in the OA and the dwelling units they each own.
6. The attorney for the County shall find that the OA documents presented satisfy standards (1) through (5) above and such other conditions as the Planning and Zoning Commission shall deem necessary.

35.12 Bonus Units: Bonus units may be awarded if the applicant exceeds the required minimum open space, as set forth in Table One. For an explanation of the calculation of units, see Section 35.4.

TABLE ONE: OPEN SPACE BONUS UNITS

Amount of Open Space	Bonus Units
50%	10%
60%	15%
70%	20%
80%	25%

35.13 Review Process for Cluster Development: If the applicant does not request the use of any bonus units, the review of cluster developments shall be administered by the Gallatin County Planning Staff. Upon submittal of a complete application for a cluster development, the Planning Staff shall review the application for compliance with the requirements of this section and other applicable sections of this regulation. Reviews shall be completed within 45 days of receipt of a complete submittal. Appeals of staff decisions shall be considered in accordance with the provisions set forth in Section 41.

If the applicant requests the use of bonus units, the application shall be reviewed as a conditional use according to the procedures set forth in Section 41.

35.14 Submittal Requirements: All cluster development applications shall include the following:

- a. Completed and signed application form.
- b. All applicable fees.
- c. A traffic study, if the proposed development will generate 500 or more vehicular trips per day.

- d. A site plan showing:
  - 1. Property lines and easements, with dimensions and area.
  - 2. Topographic information.
  - 3. Existing vegetation, wildlife habitat, watercourses, wetlands, soil types and floodplains.
  - 4. Existing land uses.
  - 5. Location and dimensions of existing and proposed structures, utilities, trails and improvements.
  - 6. Land use designations.
  - 7. General circulation system, including streets and multi-use pathways.
  - 8. Number and types of dwelling units.
  - 9. Number of off-street parking places.
  - 10. General landscape plan.
  - 11. Amount and location of open space.
  - 12. Amount, location, purpose and use of common space.
  - 13. Proposed treatment of perimeter boundary of the development.
- e. Proposed covenants and homeowner's association, documents which provide for the maintenance of common areas, appropriately limit the use of open space, assign the right to use common property to each lot owner and provide for association assessments.

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## SECTION 36 SIGNS (Amended: County Commission Resolution No. 1997-81)

36.1	Intent	36.8	US Highway 191
36.2	Definitions	36.9	Non-Conforming Signs
36.3	Permit Procedures	36.10	Design Standards
36.4	Permitted Signs	36.11	Computations
36.5	Prohibited Signs	36.12	Master Sign Permits
36.6	Exempt Signs	36.13	Violations
36.7	Temporary Signs		

**36.1 INTENT.** The purpose of this sign regulation is to preserve and maintain the Gallatin Canyon/Big Sky Zoning District as a visually attractive environment. These regulations are designed to encourage integrated and harmonious signage and to enable the identification of places, residences and businesses. These regulations are intended to lessen hazardous situations, confusion and visual clutter caused by the proliferation, improper placement, illumination, animation, and excessive height and bulk of signs.

### **36.2 DEFINITIONS.**

Banner. Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges (see *Exempt signs*).

Beacon. Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot at the light source; also, any light with one or more beams that rotate or move.

Billboard/off-premise sign. A permanent outdoor sign which advertises foods, products or services not sold on the premises on which said sign is located (see *Prohibited signs*).

Canopy sign. Any sign that is part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window or outdoor service area. A marquee is not a canopy (see *Permitted signs*).

Changeable copy sign. A sign or portion thereof with characters, letters, numbers or illustrations that can be periodically or seasonally changed or rearranged without altering the face or the surface of the sign (see *Exempt signs*).

Commercial message. Any sign wording, logo or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

Construction sign. A temporary sign erected on the premises where construction is taking place, indicating those having a role or interest with respect to the current project (see *Temporary signs*).

Directional sign. Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as “one-way,” “entrance” and “exit,” (see *Exempt signs*).

Flag. Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or educational, religious or charitable institution (see *Exempt signs*).

Free-standing sign. Any nonmovable sign not affixed to a building (see *Permitted signs*).

Hanging sign. A sign hanging down or suspended from a marquee, awning, porch or the underside of a horizontal or inclined surface (see *Permitted signs*).

Home occupation sign. A sign containing only the name and occupation of a permitted home occupation (see *Exempt and Prohibited signs*).

Incidental or informational sign. A sign, generally informational, that has a purpose secondary to the use of the parcel on which it is located, such as "no parking," "loading area," "entrance," "restrooms," pickup and delivery areas and other directives. No sign with a commercial message shall be considered incidental (see *Exempt signs*).

Marquee. Any permanent roof-like canopy, often of metal or glass, projecting over an entrance (see *Permitted signs*).

Name plate. A sign, located on the premises, giving the name or address, or both, of the owner or occupant of a building or premises (see *Exempt signs*).

Non-conforming sign. A sign that does not conform to regulation requirements.

Pennant. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind (see *Prohibited signs*).

Political sign. A temporary sign announcing or supporting political candidates or issues in connection with an election (see *Exempt signs*).

Portable yard sign: Portable yard signs (such as a sandwich-board sign), generally located on site, are intended to be displayed for less than 24 hours at a time for the purpose of announcing a garage sale, yard sale, open house, special sale or similar event (see *Exempt signs*).

Portal. A rustic entrance gate of stone, log or lumber, or combinations thereof, which may contain words, symbols or brands, indicating the address or identity of a park, farm, ranch or residence (see *Exempt signs*).



Projecting sign. Any sign affixed to a building or wall in a way that its leading edge extends more than six inches beyond the surface of the building or wall (see *Permitted signs*).

Real estate sign. A sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located (see *Exempt signs*).

Sign. Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of a person or entity, or to communicate information of any kind to the public.

Sign area. The entire face of a sign, including the advertising surface and any framing, trim, or molding but not including the supporting structure (see *Computations*).

Special purpose sign. Signs and banners promoting events sponsored by civic, charitable, educational or other non-profit organizations (see *Exempt signs*).

Temporary sign. Any sign, not permanently mounted, used only temporarily (over 24 hours and not displayed for over 120 days). Temporary signs may announce properties for sale, lease or rent, or non-commercial signs (see *Temporary signs*).

Wall sign. Any sign attached to, and within six inches of a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, supported by the wall or building (see *Permitted signs*).

Window sign. Any sign in a window designed to communicate information (see *Permitted signs*).

Zoning Enforcement Agent. The Gallatin County Planning Director or his/her designee.

**36.3 PERMIT PROCEDURES.** No person shall erect, alter, or relocate any permanent or temporary sign within the District without first obtaining a sign permit, unless the sign is exempt under this regulation. The following procedures shall govern all sign permits and Master Signage Plans:

**A. General Procedures:**

1. All sign permit or Master Signage Plan applications shall be submitted to the Zoning Enforcement Agent (the "Agent") in accordance with forms provided by the Gallatin County Planning Office. Applications must conform in every respect with the requirements of this ordinance and with any applicable Master Signage Plan.

2. The Agent shall review a sign permit application for completeness within five working days following receipt of the application. The Agent shall issue or reject the sign permit within 14 working days following submittal of a complete application.
3. A Master Signage Plan application shall be approved or rejected within 21 working days following submittal of a complete application or on the date of final action on any related application (land use permit, site plan, variance, conditional use permit, or development plans for signs involving new construction).
4. Detailed drawings showing the dimension, design, structure, and location of each sign are required. One application and permit may include multiple signs on the same lot.
5. Application fees in the amount of \$25 for an individual sign permit and \$50 for a Master Signage Plan must be paid at time of submittal to the Gallatin County Planning Office.

**B. Variances:** The County Commission shall consider variances in accordance with procedures outlined in this regulation (Section 43).

**C. Inspections:** The Agent shall inspect the lot for which each permit for a new or modified sign is issued within six months following issuance of a permit. The permit shall lapse and become void if construction is not completed within one year.

**36.4 PERMITTED SIGNS.** The following sign types are allowed subject to review based upon the regulations set forth in this code (see Exempt Signs (Section 35.6 for permitted signs which are exempt from review):

**A. Free-standing signs.**

1. Zoning restrictions. Free-standing signs are permitted in all zoning categories. In residential districts, free-standing signs are permitted only as part of subdivisions of 10 lots or more or master planned developments.
2. Setback and orientation. Free-standing signs must comply with appropriate setbacks. Perpendicular or parallel alignment is permitted provided that signs perpendicular to the road are finished on both sides, and that parallel signs maintain a setback of at least 25 feet from edge of pavement or gravel. The Agent may decrease this setback if siting affects public health and safety.

3. Density. One free-standing sign is the maximum permitted per lot or project. Two free-standing signs may be permitted, subject to Agent approval, if the property has more than 1000 feet of continuous frontage and more than one entrance. The square footage of both signs may not exceed 72 square feet (one 36-square-foot sign per entrance). Where there is frontage on more than one street, each frontage is treated independently although signage area cannot be transferred from one frontage to another.
4. Design. Free-standing monument signs with solid or enclosed bases are permitted. Signs supported by two or more poles without enclosed bases are also permitted provided that the exposed poles' height do not constitute more than 50 percent of the sign's overall height (i.e., the height of the open area beneath a sign cannot exceed 50 percent of the sign's total height). Single pole signs are not permitted except if used in conjunction with a horizontal cross-bar to support hanging signs on one side of the pole only, subject to the required projection and clearance provisions (Section 36.10).
5. Height limit. Free-standing signs cannot exceed 15 feet in height.
6. Size. Free-standing signs shall be limited to a maximum of 36 square feet unless a building has no other signage, in which case 45 square feet of signage is allowed (unless the sign is located on property fronting US Highway 191 as described in Section 36.8).

Content. Free-standing signs can only identify the building or business name.

**B. Window signs**. Permanent window signs may be placed as follows:

1. On windows below the second floor, no more than 25 percent of the window shall be obscured.
2. Windows on or above the second floor shall be limited to not more than two rows of lettering identifying the business with characters not exceeding six inches in height.

**C. Wall signs**. Wall signs must meet all required standards and shall be placed so as to utilize a building's architectural features without obscuring them.

**D. Projecting signs**. Projecting signs cannot exceed 18 square feet or project more than 36 inches from a building's face. Projecting signs must have at least eight feet of ground clearance unless reduced according to the projection and clearance provisions of Section 36.10 and cannot exceed the building height. Projecting signs may not extend beyond the applicant's property.

- E. **Hanging signs.** Hanging signs shall not project beyond the building, canopy, awning or colonnade and must have at least eight feet of ground clearance.
- F. **Awnings.** Awnings must blend with the architecture and not obscure details of the building. Awnings are counted as signage if they have lettering or other graphics conveying a commercial message or the name of a business or product sold in the building to which the awning is attached. The following restrictions apply to awnings:
1. **Signage area.** Only 20 percent of any one face of an awning may be used for signage.
  2. **Material.** Material should be high quality, colorfast and fade-resistant.
  3. **Color.** Awning colors are generally limited to a single field color with a contrasting color for lettering and logos. Two field colors may be used on a striped awning.
  4. **Illumination.** Illuminated (back lighted) translucent awnings or translucent letters on opaque backgrounds are not permitted (unless in conformance with Section 36.10).
  5. **Clearance and projection.** Awnings must have a minimum clearance of eight feet to the frame and seven feet to the bottom of the valance. Awnings may project a maximum of 36 inches from building face except when used as entrance canopies.
  6. **Entrance canopies.** Entrance canopies may be used only if they lead to an entrance of a commercial use and if compatible with the building's architecture.
  7. **Location of awnings.** Awnings can only be used in a traditional manner above doors, windows, or walkways. Free-standing awnings are prohibited.
- G. **Neon signs.** Neon may be used only for window signs. Animated neon is not permitted.
- H. **Changeable copy signs.** Changeable copy signs may only be used in conjunction with theaters and gas stations (price listing only).
- I. **Directory signs.** A maximum of 36 square feet of directory signage is permitted to provide information for commercial or residential projects.

Directory signs can contain the building name, street address, and/or tenant names or unit numbers. Telephone numbers, rental information, or sales information is not permitted. Signs shall be located in the common area of the project and oriented toward a central pedestrian path or common parking area. Directory signs may not be oriented for off-site viewing.

- J. **Directional signs.** Directional signs giving information or direction about recognized areas of regional importance or interest may be a maximum of 16 square feet.

**36.5 PROHIBITED SIGNS.** All signs not expressly permitted or exempt under this regulation hereunder in accordance with the previous section are prohibited. Such prohibited signs include, but are not limited to:

- A. Beacons.
- B. Billboards or off-premise signs (such as sandwich-board signs).
- C. Pennants.
- D. Light strings. Strings of lights not permanently mounted to a rigid background, except those exempt under Section 36.6.
- E. Neon signs. With the exception of window signs, all neon signs are prohibited.
- F. Home occupation signs are prohibited in the following districts: R-SF-1, R-MF-3500, R-SF-6000, R-SF-6500, R-SF-7500 and R-SF-11,000.
- G. Signs in the public right-of-way. No signs shall be allowed in the public right-of-way, except for the following:
  - 1. **Permanent signs.** Permanent signs, including:
    - a. Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, promote public safety, and direct or regulate pedestrian or vehicular traffic.
    - b. Bus-stop signs.
    - c. Incidental or public utility signs.
    - d. In the Meadow Center District only: awning, projecting and suspended signs projecting over a public right-of-way as approved by the Agent and in conformity with this Section.

2. Emergency signs. Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

**36.6 EXEMPT SIGNS.** The following signs shall be exempt from regulation under this ordinance:

- A. Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance.
- B. Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the lot or parcel on which such sign is located.
- C. Works of art, banners, special purpose signs and/or flags that do not include a commercial message.
- D. Holiday lights and decorations with no commercial message.
- E. Non-commercial traffic control signs on private property meeting Department of Transportation standards.
- F. Up to three political signs are permitted on any one parcel of property 60 days preceding and 14 days following a general or special election. Political signs must comply with placement standards of this regulation.
- G. "No trespassing," "no hunting," "beware of dog" signs, etc., no larger than four square feet, shall be allowed in all zones. Such signs shall not be located closer than 100 feet to a similar sign.
- H. Name plates, no more than one square foot, identifying the name or address, or both, of the owner or occupant of a building or premises are permitted in all districts. Name plates may be used in lieu of a directory sign on multi-family projects. Directory signs may not be used in conjunction with name plates except that each unit may be identified with a number.
- I. Signs and banners promoting events sponsored by non-profit organizations (special purpose signs) may be placed on private property up to two weeks in advance of the event. Removal must occur five days following event conclusion.
- J. Home occupation signs may be a maximum of two square feet and are only permitted in the following districts: R-SF-2.5, R-SF-5, R-SF-10, R-SF-20, R-SF-40 and R-SF-100.

- K. Portable yard signs are permitted in all districts for no more than 24 hours at a time. No more than two such signs are permitted per property, one of which must be on the property to which the sign pertains, and the other placed off-site for directional purposes.
- L. Portal signs, if over a roadway entrance, shall provide 16 feet of clearance from the road crown to the bottom of the portal. The portal sign shall not hang down more than two feet from its support.
- M. Signs such as “no smoking,” “restroom,” “no solicitors,” and “vacancy,” which relate to the permitted use and/or on-site informational signs are allowed in all districts. Such signs cannot exceed two square feet.
- N. Real estate signs shall be no larger than three square feet and shall be placed on a lot by owners or their agents. Signs must be removed immediately upon closing of the sale or listing expiration.
- O. Copy changes on a changeable copy, or marquee sign, for maintenance or seasonal variation where no structural changes are made, or for copy changes on signs using interchangeable letters.
- P. Menus may be displayed on the inside of restaurant windows or inside a wall-mounted or free-standing display box. Display boxes, a maximum of two square feet, shall be designed and constructed to coordinate with building design, withstand weather and located only on private property.
- Q. Unique/historic signs in existence at the time this regulation was adopted meeting the following criteria as determined by the Zoning Enforcement Agent: (1) The sign is unique because there are few, or no others, similar to it; (2) The sign was not mass designed or produced and; (3) The sign is easily identified with a specific historic and/or cultural era or with an historically or culturally important building.

**36.7 TEMPORARY SIGNS:** Temporary signs are permitted in all zoning districts upon issuance of a Temporary Sign Permit and the following regulations:

- A. **Time.** Temporary Sign Permits are issued for a specified 60-day period. Only two temporary sign permits shall be issued to the same business or property owner within a given year.
- B. **Location.** Temporary signs must be located a minimum of 20 feet from the edge of the road or be within three feet of a structure. Temporary signs are not permitted in side yards. Signs may be displayed through windows or other glass areas subject to the restrictions of Section 36.4.
- C. **Number.** Only one temporary sign is permitted on any one parcel of property, except political signs (36.6(F)).

- D. **Size.** Temporary signs shall not exceed three square feet.
- E. **Height.** No sign shall extend more than six feet above ground level (without snow). Mounting devices may extend no more than six inches above the sign.
- F. **Temporary construction project signs.** Temporary construction project entry signs are permitted subject to the following regulations:
  - 1. **Size.** Three square feet of temporary signage is allowed per residential unit, and two square feet of signage allowed per 1,000 square feet of commercial floor area. Construction signage cannot exceed 32 square feet in size or 10 feet in height from the ground.
  - 2. **Location.** Signage must be located according to the required setbacks.
  - 3. **Time limit.** Construction project signs may be installed upon granting of a County land use permit. The sign may remain so long as initial construction continues. It must be removed if the land use permit expires or if a permanent sign is installed.
- G. **Color and materials.** Temporary signs, and construction project signs are subject to the Design Standards of Section 36.10.
- H. **Lighting prohibited.** No temporary sign, or construction project entry sign may be illuminated in any manner.
- I. **Exceptions.** Exceptions to the sign setback standards due to heavy vegetation or steep terrain may be granted, but not to the size or street orientation standards.

**36.8 US HIGHWAY 191.** The following requirements pertain to signs on property fronting US Highway 191:

- A. Free-standing signs are limited to a maximum of 100 square feet per building. If a building contains more than one business, a master signage plan must be submitted.
- B. Single-pole signs are permitted on property fronting US Highway 191.
- C. Signs on property fronting US Highway 191 can be internally illuminated.
- D. For property fronting US Highway 191, exposed sign surfaces may be constructed of plastic.



**36.9 NON-CONFORMING SIGNS.** Any sign in existence on the date of the adoption of this regulation but is not in conformance with the requirements of this regulation shall either be eliminated or brought into conformance no later than five years from the date of adoption. Non-conforming signs are subject to the following requirements:

- A. No action shall be taken to increase a sign's nonconformity. A change in the information on the face of an existing non-conforming sign is allowed.
- B. When any change, repair, or maintenance would constitute an expense of more than 25 percent of the lesser of the original value or replacement value of the sign, such non-conforming sign shall either be eliminated or brought into conformance.

**36.10 DESIGN STANDARDS.** All regulated signs must comply with the following design standards (see Section 36.8 for standards for US 191):

- A. **Size requirements.** The total area of all permanent signs on one building face, including window signs, wall signs, projecting signs, and hanging signs, shall not exceed 10 square feet per business per building face or eight square feet per business per building face if used in conjunction with a free-standing sign.
- B. **Materials.** Exposed sign surfaces shall be constructed of metal, glass, stone, Dryvit or similar material, concrete, brick, cloth, or solid wood, unless located on property fronting US 191. Other materials may be used in the following applications:
  - 1. The face or background may be constructed of exterior grade plywood.
  - 2. Letters. Synthetic, natural or manufactured materials may be used for individual cut-out or cast letters in particular applications where the synthetic or manufactured nature of the material would not be obvious due to its finish and/or its location on the building. The Agent may approve other materials.
- C. **Color.** Signs must be finished in subdued earthtone colors including the full spectrum of soil, clay and coniferous tree colors which compliment the color scheme of the building. Off-whites, deep browns, greens and light grays to black are acceptable. Brighter colors may be used provided they are imbued with brown or black tones. A matte or flat finish is required for all painted surfaces. "Day-glo", fluorescent, reflective colored materials that give the appearance of changing color or brilliant luminescent colors are not permitted.
  - 1. **Franchise colors.** The use of recognized franchise colors may be approved by the Agent.

- D. **Illumination.** With the exception of property fronting US Highway 191, all signs shall be lighted externally. Light fixtures must not obscure building ornamentation or clutter the building. Spot and flood lights shall be directed only at the sign surface, not directed off the property. No exposed light sources are allowed, and all light sources must be shaded to restrict light rays to the sign. Colored lighting is prohibited.
- E. **Content.** With the exception of theater marquees and filing station prices, sign content is limited to permanent material such as: the business name, the nature of the goods or services offered, and street address. (As previously noted, free-standing signs may only identify the name of the building or one business.) Prices and listing of specific items are prohibited. Logotypes or other symbols are appropriate. Signs including sculptures or other works of art shall be reviewed as a conditional use permit (Section 41). Signs containing misleading content or false information are prohibited. If all requirements are met, signs containing ideological, political or other non-commercial messages shall be permitted.
- F. **Location on building.** Signage should compliment building design, establish a visual continuity with adjacent store fronts, relate directly to the store entrance and be compatible with building mass and scale. Signs must be oriented toward pedestrians or vehicles in close proximity; those oriented for distance viewing are not permitted.
- G. **Setbacks.** Permanent signs shall not be placed in the setback area as defined by the particular zone (except in the Commercial/Industrial Mixed Use District, signs may be set back 10 feet from the property line). The Agent may decrease the setback for reasons relating to public health and safety or due to terrain (see Section 36.7 for setback requirements for temporary signs).
- H. **Projection and clearance.** Signs cannot project more than 36 inches from a building face or pole. Projecting and hanging signs must maintain at least eight feet of clearance from ground level, or seven feet if sign projects or hangs over a landscaped area if the sign is set back at least three feet from any hard surface. Signs may not extend across the applicant's property line.

**36.11 COMPUTATIONS.** The following principles shall control the computation of sign area and height:

- A. **Individual signs.** Sign area shall comprise the entire face of a sign, including the advertising surface and any framing, trim, or molding but not including the supporting structure.

- B. **Multi-faced signs.** Area shall be computed by adding all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 36 inches apart, the sign area shall be computed as the area of one of the faces.
- C. **Height.** Height shall be computed as the distance from the roadway crown to the tip of the highest attached component of the sign.

**36.12 MASTER SIGNAGE PLAN.** Buildings or clusters of buildings having more than one tenant or use, PUDs, multi-tenant condo associations and multi-lot incorporated property owners associations shall provide a Master Signage Plan for the entire structure or project. The Master Signage Plan must establish a common theme or design, compatible colors, lettering, lettering style, symbols, scale and size of signs and/or identical background and similar construction.

**A. General standards.**

1. No permit shall be issued for an individual sign until a Master Signage Plan has been submitted to and approved by the Agent.
2. Signage plans for office buildings must focus on building identification. Individual tenants may be identified by using small lettering on a window, door or directories. Total signage area within the plan is subject to the maximum size limitations of this Section. Signage area is not transferable.
3. For multi-tenant retail and mixed-use buildings, sign plans shall be designed so that wall signage is confined to the building surface below the finished floor elevation of the second floor or 20 feet above adjacent natural grade, whichever is lower.

Signs below the finished floor elevation of the second floor may be located on flat wall areas, within windows or on sign bands above windows. Signage above the finished floor elevation of the second floor shall be restricted to one sign per building face identifying the building name and address. The Agent may grant exceptions to building with pre-existing signs band or unique architectural features.

**B. Contents.** A Master Signage Plan shall contain the following:

1. An accurate plot plan of the lot at the horizontal scale of not less than two hundred feet to the inch.
2. Location of buildings, parking lots, driveways, and landscaped areas on the lot.

3. Computation of the maximum total sign area, the maximum area and height for individual signs, and the number of freestanding signs.
  4. An accurate indication of the proposed location of each present and future sign whether requiring a permit or not (with the exception of incidental signs).
  5. Photographs of any existing signs.
- C. **Window signs.** A Master Signage Plan shall include type of window signs and shall indicate the area to be covered by window signs. The exact dimension or nature of every window sign is not required.
- D. **Consent.** The Master Signage Plan shall be signed by all owners or their authorized agents as required by the Agent.
- E. **Procedures.** A Master Signage Plan shall be included and simultaneously processed with any development plan, site plan, planned unit development plan, variance application, conditional use permit application, or any other official plan required by this regulation.
- F. **Amendment.** A Master Signage Plan may be amended by filing a new plan conforming with all pertinent requirements.
- G. **Binding effect.** After approval of a Master Signage Plan, all signs erected thereafter shall conform with such plan. Enforcement will occur in the same way as any provision of this regulation. In case of any conflict between the plan and the regulation, the regulation shall control.

### **36.13 PLANNED UNIT DEVELOPMENTS, MULTI-TENANT CONDO ASSOCIATIONS AND MULTI-LOT INCORPORATED PROPERTY OWNERS ASSOCIATIONS AND MASTER SIGNAGE PLAN**

All developers of PUDs, multi-tenant condo associations and multi-lot incorporated property owners associations shall either submit a Master Signage Plan, as required per Section 36.12 of this regulation, which is based on the minimum requirements of Section 36, or submit a Master Signage Plan based on alternative design, implementation and enforcement within the PUD, multi-tenant homeowners association, or multi-lot incorporated property owners association. The alternative Master Sign Plan options shall be submitted as per Section 36.13.B "Contents," reviewed and approved through the conditional use permit process, and administered and enforced by the developer, homeowners association or other assignee.

- A. **Intent.** The purpose of a PUD, multi-tenant condo association or multi-lot incorporated property owner's association alternative Master Signage Plan is to establish a coherent and appropriate signage plan for the entire project that will complement the land uses, architecture, and the built environment within the development. All developers or owner's associations of PUDs, multi-tenant condo associations or multi-lot incorporated property owner's

associations shall develop standards that adhere to the following goals and objectives:

1. Provide signage that is in scale with the buildings and uses served
2. Provide signage that is unobtrusive but appropriate to its intended purpose
3. Provide signage that is legible and contains clear images
4. Management of signage by providing shared signage structures with multiple sign areas for individual tenants or building uses
5. Provide signage that contributes to achieving a unique identity for the particular development and its context with the greater Big Sky and Canyon areas
6. Encourage the use of forms, materials, images, and colors that reflect the scenic wildland context and that contribute to a sense of place
7. Provide signage within the community that is consistent with small town ambience
8. Create signage that does not detract from the surrounding views, both near and distant, within the Big Sky and Canyon areas
9. Master PUD applications must include development guidelines and statements of principle in lieu of master sign plans to guide subsequent PUD applications with the MPUD
10. In order to aid the progressive completion of multi-phase or multi-year projects the alternate master sign plan for PUDs, multi-tenant condo associations or multi-lot incorporated property owner's associations may include plans for temporary development signs, including sales and directory signs, consistent with this section

**B. Contents.** An alternative Master Sign Plan shall contain the following:

1. A master site plan with the following information:
  - a. An accurate plan of the lots at the horizontal scale of not less than two hundred feet to the inch.
  - b. The proposed location of buildings, parking lots, driveways and landscaped areas on the lot(s).
  - c. Computation of the proposed maximum total sign area, the proposed maximum area and height for individual signs, and the proposed number of freestanding signs, for each lot or building (presented in a table format).
  - d. An accurate indication of the proposed location of each present and future freestanding signs (with the exception of incidental or exempt signs).

- e. An indication of where temporary development signs will be located, when they will be installed and when they will be removed.
2. A written text section addressing the following for the alternative Master Signage Plan:
- a. Intent statement
  - b. Definitions of terms used in the Master Signage Plan Document
  - c. Permitting procedures with the Master Signage Plan and with the Gallatin County Zoning Enforcement Agent
  - d. Permitted Signs
  - e. Prohibited Signs
  - f. Exempt Signs
  - g. Temporary Signs
  - h. Design Standards
  - i. Computations
  - j. Maintenance of Signs
  - k. Violations and Enforcement

*(Amended: County Commission Resolution No. 2004-78)*

**36.14 VIOLATIONS.** The following are considered violations of this regulation and are subject to the enforcement remedies and penalties provided by this regulation and by state law:

- A.** To install, create, erect, or maintain any sign inconsistent with any plan or permit governing such sign or lot on which sign is located.
- B.** To install, create, erect, or maintain any sign requiring a permit without a permit.
- C.** To fail to remove any sign that is installed, created, erected, or maintained in violation of this regulation.
- D.** Each day of a continued violation shall be considered a separate violation when applying the penalty portions of this regulation.
- E.** Each sign installed, created, erected, or maintained in violation of this regulation shall be considered separately

## **SECTION 37                      STREAM ACCESS AND PRESERVATION**

- 37.1     Intent. The intent of this overlay district is to protect and preserve the water quality and visual quality of streams and riparian habitat and to encourage public access to rivers and streams.
- 37.2     Applicability of Stream Access and Preservation Guidelines. The provisions of this section shall apply to any application for a land use permit or subdivision on land located adjacent to or within 150 feet of the annual mean high water line of the Gallatin River and any other river or stream that flows year around during years of normal rainfall, as determined by the Gallatin County Planning Staff. The “Flood Plain Management Study, Gallatin River at Big Sky”, as prepared by the USDA/NRCS, shall be used as reference where appropriate.
- 37.3     Submittal Requirements for Land Use Permits Along Designated River and Stream Corridors. Submittal materials for applications shall include:
- a.        Survey of the subject parcel prepared by a registered land surveyor. The survey shall indicate property boundaries and the location of the annual mean high water line of the river or stream.
  - b.        Site Plan at a scale of 1”:20’ or greater indicating the location of all proposed structures, site access and other site improvements.
  - c.        Grading and drainage plan drawn at the same scale as the site plan indicating all proposed regrading, cross-sections of all proposed cuts and fills, heights of all proposed retaining walls, and proposed site drainage.
  - d.        Erosion control and revegetation plan indicating all proposed measures to control surface water run-off, retain eroded soil material during construction and permanently stabilize disturbed slopes and drainage features upon completion of construction.
- 37.4     Design Standards. All development and site modifications proposed by the land use permit application shall comply with the following design standards:
- a.        All buildings and site improvements shall maintain a minimum setback of 100 feet from the annual mean high water line of the Gallatin River and 50 feet from the annual mean high water line of all other designated streams.
  - b.        Uses within the stream setback shall be limited to the planting of native riparian vegetation, agricultural uses (with the exception of structures), maintenance of existing non-native vegetation, and the control and maintenance of noxious weeds, deadfall and selected pruning. The removal of existing native vegetation within the setback area is not permitted.

Notwithstanding the above, required setbacks for land use permit applications on lots of record that were legally subdivided or recorded prior to the effective date of this regulation shall be as follows:

- a. All buildings and site improvements shall maintain a minimum setback of 50 feet from the annual mean high water line of the Gallatin River and 25 feet from the annual mean high water line of all other designated streams.

37.5 Review Criteria. The following design criteria shall be used by the Planning Staff to evaluate land use permit applications. It shall be the burden of the applicant to demonstrate that proposed development complies with the following criteria, that one or more of the criteria are not applicable, or that a practical solution consistent with the purpose of this section has been achieved. The Planning Staff shall act on land use permit applications by either approving, approving with conditions or denying the application based compliance with the following:

- a. Appropriate temporary and permanent erosion control measures shall be provided to minimize sediment and other contaminants from interference with the river or stream.

37.6 Variances to Design Standards. Variances to Section 37.4 Design Standards for Land Use Permits Along Designated River and Stream Corridors shall be considered by the Planning and Zoning Commission in accordance with the Variance Section of the GC/BS Zoning Regulation. Prior to approving a variance request, the Commission shall make one or more of the following findings:

- a. Compliance with one or more of the design standards would deprive an owner of the reasonable use of its property;
- b. There are no practical alternatives to building within the required setback area.
- c. The proposed variance will result in greater compliance with the overall intent of Section 37.4 by preserving the water quality and visual quality or river and stream corridors in a manner that would not otherwise be possible by the strict adherence to Section 37.4 Design Standards.

37.7 Proposed Subdivision of Land Located Along Designated River and Stream Corridors. The following review process, design standards, and review criteria provisions shall apply for all minor and major subdivision applications on land located adjacent to or within 150 feet of the annual high water line of any designated river or stream.

37.8 Review Process. Design standards and review criteria outlined in this section shall be used by the Board of County Commissioners in conjunction with applicable subdivision review criteria to evaluate proposed subdivision applications. In the event of any conflicts between these design standards and review criteria, the most restrictive provision shall apply.



If warranted by the nature of the proposed development, the presence of unique site characteristics or other considerations, the Planning Staff may modify or waive any of the submittal requirements listed above.

37.9 Design Standards. Subdivision applications on land located along designated river and stream corridors shall comply with each of the following design standards:

- a. Building envelopes shall be required for all proposed lots. The building envelope defines the portion of each lot within which all improvements must be located. Improvements shall include all buildings, garages, decks, patios, terraces, retaining walls, fences, and recreational facilities. Site access improvements may be located outside of the building envelope.
- b. No portion of a building envelope shall be located within 100 feet of the annual high water line of the Gallatin River or 50 feet from any other designated river or stream.

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## SECTION 38 ADMINISTRATION

38.1 Employees and Officers. The Planning and Zoning Commission is hereby authorized to appoint and hire such employees and officers, including a Zoning Enforcement Agent as shall be deemed necessary to carry out the provisions of these regulations. The Zoning Enforcement Agent may be an employee of Gallatin County and if so, shall perform duties hereunder without remuneration in excess of the Agent's regular salary.

38.2 Duties of the Zoning Enforcement Agent. The Zoning Enforcement Agent shall issue all land use permits and review all applications submitted to the Zoning Commission for conditional use permits, variances, rezoning requests and amendments to these regulations.

The Zoning Enforcement Agent and staff shall work for the Planning and Zoning Commission and be in an advisory capacity, making recommendations on all requests. The Zoning Enforcement Agent and staff shall also investigate violations of these regulations.

If the Zoning Enforcement Agent finds that provisions of these regulations are being violated, the Agent shall notify in writing the person responsible for the violation, stating the nature of the violation and requesting that action be taken to correct it. The Zoning Enforcement Agent shall request discontinuance of illegal use of land, building, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes, discontinuance of any illegal work being done; or shall take any other action authorized by these regulations to ensure compliance with or prevent violation of their provisions.

38.3 Appeals. Appeals from the decision of the Zoning Enforcement Agent concerning interpretation of these regulations may be taken in writing to the County Commission. An appeal must be filed within 10 working days of the date of the written decision of the Zoning Enforcement Agent with the County Commission.

A public hearing shall be held on any appeal only if the matter appealed was required by the terms of these regulations to be decided after holding a public hearing. At the hearing, the County Commission shall accept testimony from persons interested in the appeal, the appellant and the Zoning Enforcement Agent. Notice of the hearing shall be published once in a newspaper of general circulation within Gallatin County at least 15 days prior to the hearing date.

38.4 Schedule of Fees. All applications for permits, zone changes, conditional uses, or variances shall be accompanied by the applicable fees, which shall be established by the Planning and Zoning Commission by Resolution after public notice and hearing. Fees are not refundable.

No permit, zone change, conditional use, or variance shall be issued unless or until the fees have been paid in full. No action shall be taken on proceedings before the Planning and Zoning Commission, unless, or until the fees have been paid in full.

## SECTION 39                      ADVISORY COMMITTEE

- 39.1 Advisory Committee Created. There is hereby created a GC/BS Advisory Committee consisting of five members, appointed by the Planning and Zoning Commission. Members shall be freeholders in the GC/BS Planning and Zoning District. The members of the Advisory Committee shall serve without compensation.
- 39.2 Term. Advisory Committee members shall be appointed for two-year staggered terms. Initially, two members shall be appointed for one-year terms and three members shall be appointed for two-year terms.
- 39.3 Role and Duties. All applications and petitions received by the Planning and Zoning Commission or the County Commission shall be forwarded to the Advisory Committee. The Advisory Committee shall consider, formulate and transmit a recommendation on all applications, petitions and all alleged zoning violations (except land use permits). The recommendation shall be advisory only and shall not be binding upon the Planning and Zoning Commission or the County Commission. *(Amended: County Commission Resolution 1997-81.)*
- 39.4 Open Meetings. All meetings of the Advisory Committee shall be open to the public in accordance with the Montana Open Meetings Law. Public notice of Advisory Committee meetings shall be given.
- 39.5 Oath of Office. Upon appointment, Advisory Committee members shall take a statutory oath, supporting and defending the Constitution and laws of the State of Montana, to support the zoning regulations, to disclose any personal economic interest in any matter coming before the Advisory Committee, to disqualify themselves from participation in any matter should there be a conflict of interest, to comply with the law; as they interpret and make recommendations on the Plan, Capital Improvements Policy and Zoning Regulation.

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## **SECTION 40                      AMENDMENTS AND CHANGES**

- 40.1 Zoning Regulation Amendments. These regulations and the development pattern may be amended whenever the public necessity and convenience and general welfare requires such amendment and according to the procedure prescribed by law and these regulations.
- 40.2 Amendment Procedure. An amendment may be initiated by:
- a. The petition of one or more land owners of property effected by the proposed amendment. The petition shall be signed by petitioning land owners and shall be filed with the Zoning Enforcement Agent. The petition shall be accompanied by the appropriate fee, payable to Gallatin County; or
  - b. Resolution of intention of the Board of County Commissioners; or
  - c. Resolution of intention by the Planning and Zoning Commission.
- 40.3 Planning and Zoning Commission Hearing. All proposed amendments shall be considered by the Planning and Zoning Commission at a public hearing. Notice of the hearing shall be given in a newspaper of general circulation in Gallatin County and posted in a public place within the Zoning District not less than 15 days prior to the date of the hearing. After the public hearing the Planning and Zoning Commission may prepare and submit drafts of resolutions to the County Commission for the purpose of adopting any amendment. At its next regular public meeting following the receipt of the drafts of the resolutions, the County Commission shall consider the resolutions.
- 40.4 Joint Hearing. The Planning and Zoning Commission and County Commission may conduct a joint public hearing to consider amendments. The procedures of Section 40.3 shall apply to a joint public hearing.

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## SECTION 41                      CONDITIONAL USES

41.1 Intent. The intent of conditional use permits is to provide for uses, other than those specifically permitted in each district, which may be appropriate under certain safeguards or conditions.

41.2 Conditional Use Requirements. No structure or land in any district may be used for any purpose unless such use is listed as a permitted or conditional use in these regulations and approval for that use is obtained through the proper procedure.

Conditional use permits may be granted by the Planning and Zoning Commission when the Planning and Zoning Commission finds:

- a. The use conforms to the objectives of the GC/BS Plan and the intent of these regulations.
- b. The use will not adversely affect nearby properties or their occupants.
- c. The use meets density, coverage, yard, height, and all other regulations of the district in which it is to be located, unless otherwise provided for in these regulations.
- d. A public hearing, after notice has been given, has been held.

### 41.3 Conditional Use Procedure

- a. All applications for conditional use permits shall be filed with the Planning and Zoning Commission accompanied by the required fee.
- b. The Planning and Zoning Commission shall then cause to be made such investigation bearing on the application as will provide necessary information to assure that the action on each application is consistent with the intent and purpose of these regulations.
- c. Upon completion of the investigation the Planning and Zoning Commission shall hold a public hearing to gather needed facts from all interested parties. The Planning and Zoning Commission may continue the hearing, if need be, to take additional information. Thereafter, the Planning and Zoning Commission shall either approve or deny the application. A letter shall be sent to the applicant stating either conditions of approval or reasons for denial.
- d. Notice of public hearing for conditional use permits shall be published at least once 15 days prior to the hearing in a newspaper of general circulation within the County. Adjacent property owners shall be notified by certified mail.

- 41.4 Conditional Approval. The Planning and Zoning Commission may make the granting of a conditional use permit subject to reasonable limitations or conditions as it may deem necessary to enhance the appearance of the property, to reduce any adverse effects on nearby property or residences, to preserve the character of the area or to make it more acceptable in other ways. The conditions may include but not be limited to the following:
- a. Special setbacks, yards, open spaces and buffers.
  - b. Fences and walls.
  - c. Lighting.
  - d. Regulation of signs.
  - e. Regulation of vehicular ingress and egress.
  - f. Regulation of time of activities that have off-site impacts.
  - g. Landscaping and its maintenance thereof.
  - h. Time schedule of proposed development.
  - i. Regulation of odors, smoke, dust, airborne particles, vibration, glare, heat and noise.
  - j. Requiring dedication or improvements of rights-of-way.
  - k. Regulation of placement of uses on the property.
  - l. Regulation of height.
  - m. Regulation of the nature and extent of the use.
  - n. Regulation of the length of time such use may be permitted.
  - o. Requirements for restoration of property.
- 41.5 Security. The Planning and Zoning Commission may require guarantees in the form of bonds, cash deposits and/or other evidences of compliance in order to secure compliance with conditions imposed.
- 41.6 Expiration. All conditional use permits issued for definite term shall automatically expire at the end of the term.
- 41.7 Authorized Use. For purposes of these regulations, a conditional use permittee shall not be considered as engaging in the authorized use on the site until the following conditions are satisfied:
- a. Buildings proposed for construction in connection with the proposed use are in the process of actual construction on the site, or
  - b. If remodeling is proposed for existing buildings in connection with the proposed use, such remodeling has actually been commenced on the site, or
  - c. If no construction or remodeling is contemplated then the permittee is regularly engaged on the site in performing the services or in selling the goods, materials, or stocks in trade of the use, and has secured all necessary federal, state and local permits and licenses.

41.8 Revocation or Modification of Conditional Use Permits. A conditional use permits may be revoked or modified by the Planning and Zoning Commission under the following circumstances:

- a. If conditions have changed substantially from those at the time the permit was granted; or
- b. Revocation or modification is necessary to protect the health, safety, and welfare of the area in which the subject property is situated or the residents of the County, or to preserve the integrity of existing use patterns in the area in which the subject property is situated; or
- c. The person holding the permit has not materially changed his position by detrimentally relying on said conditional use permit; or
- d. If the person holding the permit has not complied with the conditions upon which it was issued.

Modification or revocation may occur only after following the same formal procedure for notice and hearing required for the granting of a conditional use permit in the first instance.

41.9 Issuance of Land Use Permits. No land use permit shall be issued other than in accordance with the conditions and terms of the conditional use permit. No land use permit shall be issued until time for appeal on a conditional use permit has elapsed, or if an appeal has been filed, the appeal has been decided.

41.10 Permits: Extensions.

- a. No later than 30 days prior to the expiration of the conditional use permit, the permittee may file written application with the Planning and Zoning Commission requesting an extension of time thereon and setting forth the reasons for the request. Each application shall be accompanied by the required fee.
- b. Within five days from receipt of an application for extension, the Zoning Enforcement Agent shall send a notice of the application by mail to persons, or their successors in interest of record in the County Clerk and Recorder's office, who were mailed notice of the original application. Attached to the application shall be a notice that any person objecting to the extension shall, within 15 calendar days from the date of mailing, notify the Planning and Zoning Commission of such objection.
- c. If any objection is received from those notified, the public hearing, as set forth in Section 41.3, shall be held.

- d. If no objection is received, the Planning and Zoning Commission may extend the permit for a period equivalent to the original period for which granted, or for one year, whichever is shorter.
- e. An extension may only be granted upon finding of fact by the Planning and Zoning Commission that no change of condition or circumstances has occurred that would have been grounds for denying the original application.
- f. The Planning and Zoning Commission shall consider requests for extension only at the end of the approval period. The decision of the Planning and Zoning Commission shall be final. If the extension request is denied, a subsequent application for an extension of the permit cannot be made.

## **SECTION 42            LAND USE PERMITS**

### **42.1    Procedures for Obtaining Land Use Permits:**

- a.    No structure shall be built, moved or structurally altered until a land use permit has been issued under this Section.
- b.    Land use permits shall be issued only for uses in conformance with these regulations and the conditions and terms of a conditional use permit if a conditional use permit is required. No land use permit shall be issued until the time for appeal on a conditional use permit or variance has elapsed and all appeals are finally decided.
- c.    Permits issued on the basis of plans and specifications approved by the Zoning Enforcement Agent only authorize the use, arrangement and construction set forth in the approved plans and specifications. A use, arrangement or construction not in conformance with that authorized shall constitute a violation of these regulations.
- d.    Land use permits shall be in writing and shall be in the form specified by the Planning and Zoning Commission.
- e.    An application for a land use permit shall be filed with the Gallatin County Planning Office. Land use permits may be issued by the Zoning Enforcement Agent. All land use permit applications must be complete and fees paid before the Zoning Enforcement Agent is required to consider the permit. An application is complete when it contains all of the information necessary for the Zoning Enforcement Agent to decide whether or not the development, if completed as proposed, will comply with all of the requirements of these regulations and the GC/BS Plan.
- f.    If an application for a land use permit is denied by the Zoning Enforcement Agent, the applicant may apply for a variance with the County Commission or file an appeal with the Planning and Zoning Commission in accordance with the procedures of Section 38.3.
- g.    Where new sanitary facilities or the extension of the existing sanitary facilities are contemplated, a land use permit shall not be issued until the applicant has first obtained a sewer permit from the City/County Environmental Health Department or approval of sanitary facilities from the Montana Department of Environmental Quality or from the Big Sky County Water and Sewer District, whichever is appropriate.

#### 42.2 Certificate of Occupancy:

A certificate of occupancy shall be issued by the Zoning Enforcement Agent to confirm that all exterior construction has taken place in accordance with the approved land use permit, including any conditions imposed upon the development . This inspection shall be made prior to any occupancy of new construction, but no later than two years after the date of issuance of the land use permit. Any part of the development found not to be in compliance with the approved land use permit shall constitute a violation of these regulations.

*(Amended: County Commission Resolution No. 1997-81)*

*(Amended: County Commission Resolution No. 1999-75)*

#### 42.3 Expiration of Permits:

- a. A land use permit shall expire if the building or work authorized by the permit has not commenced within 12 months from the date of the issuance of the permit or if the building or work authorized by the permit is suspended or abandoned at any time after the work is commenced for a period of 180 days.
- b. After a land use permit has expired, no work can be recommenced until a new permit is obtained. The fee for a new permit shall be one-half of the amount required for the original permit, provided that no changes have been made or will be made in the original plans and specifications for the work and that abandonment has not exceeded one year.
- c. All exterior construction shall be completed within two years of the date of issuance of the land use permit. This includes the construction of the exteriors of all structures, the construction of all required parking, and the placement of all required landscaping and screening. This provision shall not apply to signs where a separate sign permit is required.

*(Amended: County Commission Resolution No. 1999-75)*

Intent. Within the districts established by these regulations, there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before these regulations were adopted or amended, but which would be prohibited, regulated or restricted under terms of these regulations or future amendments. It is the intent of these regulations that non-conformities shall not be enlarged upon, expanded or extended, except as permitted with an approved conditional use permit as provided herein, nor used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Non-conforming uses are declared by these regulations to be incompatible with permitted uses in the district involved. However, to avoid undue hardship, nothing in these regulations shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment to these regulations and which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

- 43.2 Non-Conforming Parcels of Record. In any district, structures permitted in said district may be erected on any non-conforming parcel which was of record on the effective date of these regulations. All other requirements and restrictions of the district apply to a parcel of record that does not meet parcel area or parcel width requirements.

A non-conforming parcel of land shall not be divided or changed in any way to reduce the area of the original parcel or increase its non-conformity except as permitted with an approved conditional use permit as provided herein.

- 43.3 Non-Conforming Uses of Land. Where at the time of the adoption of these regulations lawful use of land exists which would not be permitted by these regulations, the use may be continued so long as it remains otherwise lawful, provided:

- a. A legal non-conforming use may only be altered or enlarged which increases its non-conformity only after being granted an approved conditional use permit as required herein. Any use may be altered to decrease its non-conformity without a conditional use permit.

- b. To approve the conditional use permit, the Applicant shall demonstrate and the Planning and Zoning Commission shall determine that the proposed change to the nonconforming use materially improves the uses conformity with the Zoning Regulations (in particular the development standards in Sections 29-37) to a greater degree than the existing nonconforming use, and that no unsafe or unhealthy conditions are perpetuated. In making such a determination, the Planning and Zoning Commission shall weigh the following criteria, as addressed by the Applicant:
- Traffic impacts, both on-site and off-site;
  - Off-street parking and loading requirements;
  - The visual impact on the surrounding area;
  - The degree of compliance with the adopted GC/BS master plan and Zoning Regulation, including all applicable design standards;
  - The level of conflict with other uses in the surrounding area;
  - The presence of other nonconformities in the surrounding area;
  - The degree to which any existing unsafe or hazardous conditions would be mitigated;
  - The viability of the subject structure(s);
  - On-site and off-site impacts from noise, dust, smoke, surface or groundwater contamination, or other environmental impact.
- c. No such non-conforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of these regulations except as permitted with an approved conditional use permit as provided herein.
- d. If any such non-conforming use of land, with the exception of seasonal uses, ceases for any reason for a period of more than 180 days, any subsequent use of such land shall conform to the regulations specified for the district in which the land is located. If a seasonal use ceases for the use of one season, then subsequent use of such land shall conform to these regulations.

43.4 Non-Conforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of these regulations that could not be built under the terms of these regulations by reason of restriction on parcel area, parcel coverage, height, yards, its location on the parcel, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. A legal non-conforming structure may only be altered or enlarged which increases its non-conformity only after being granted an approved conditional use permit as required herein. Any structure or portion therein may be altered to decrease its non-conformity without a conditional use permit.



- b. To approve the conditional use permit, the Applicant shall demonstrate and the Planning and Zoning Commission shall determine that the proposed change to the nonconforming use materially improves the uses conformity with the Zoning Regulations (in particular the development standards in Sections 29-37) to a greater degree than the existing nonconforming use, and that no unsafe or unhealthy conditions are perpetuated. In making such a determination, the Planning and Zoning Commission shall weigh the following criteria, as addressed by the Applicant:
- Traffic impacts, both on-site and off-site;
  - Off-street parking and loading requirements;
  - The visual impact on the surrounding area;
  - The degree of compliance with the adopted GC/BS master plan and Zoning Regulation, including all applicable design standards;
  - The level of conflict with other uses in the surrounding area;
  - The presence of other nonconformities in the surrounding area;
  - The degree to which any existing unsafe or hazardous conditions would be mitigated;
  - The viability of the subject structure(s);
  - On-site and off-site impacts from noise, dust, smoke, surface or groundwater contamination, or other environmental impact.
- c. Should such non-conforming structure or non-conforming portion of a structure be destroyed by catastrophic event, it may be reconstructed if it is rebuilt in substantially the same manner as it existed prior to destruction and does not require prior approval by the Planning and Zoning Commission. Any use or structure which is not substantially the same as the original use or structure must conform with the applicable provisions of these regulations.
- d. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the requirements of these regulations.

43.5 Non-Conforming Uses of Structures. If lawful use of a structure or of structures and premises exists at the effective date of adoption or amendment of these regulations that would not be allowed in the district under the terms of these regulations, the lawful use may be continued so long as it remains otherwise lawful, provided that:

- a. An existing structure devoted to a legal non-conforming use may only be enlarged, extended, constructed, or structurally altered only after an approved conditional use permit is obtained as required herein. A conditional use permit is not required to change the legal non-conforming use to a permitted use.

- b. To approve the conditional use permit, the Applicant shall demonstrate and the Planning and Zoning Commission shall determine that the proposed change to the nonconforming use materially improves the uses conformity with the Zoning Regulations (in particular the development standards in Sections 29-37) to a greater degree than the existing nonconforming use, and that no unsafe or unhealthy conditions are perpetuated. In making such a determination, the Planning and Zoning Commission shall weigh the following criteria, as addressed by the Applicant:
- Traffic impacts, both on-site and off-site;
  - Off-street parking and loading requirements;
  - The visual impact on the surrounding area;
  - The degree of compliance with the adopted GC/BS master plan and Zoning Regulation, including all applicable design standards;
  - The level of conflict with other uses in the surrounding area;
  - The presence of other nonconformities in the surrounding area;
  - The degree to which any existing unsafe or hazardous conditions would be mitigated;
  - The viability of the subject structure(s);
  - On-site and off-site impacts from noise, dust, smoke, surface or groundwater contamination, or other environmental impact.
- c. Any non-conforming use may be extended to any other part of a structure designed for such use, but no such use may be extended in any way to occupy land outside the building.
- d. Any structure, or structure and land, in or on which a non-conforming use is superseded by a permitted use shall thereafter conform to the regulations of the district in which it is located and the non-conforming use may not thereafter be resumed.
- e. If a non-conforming use of a structure ceases for a period of more than 180 days, except for seasonal uses, any subsequent use of such structure shall conform to the regulations of the district in which it is located.
- f. If a non-conforming use is destroyed by catastrophic event, it may be reconstructed if it is rebuilt in substantially the same manner as it existed prior to destruction. Reconstruction of a non-conforming use does not require prior approval of the Planning and Zoning Commission. Any use which is not substantially the same as the original use must conform with the applicable provision of these regulations.

- 43.6 Repairs and Maintenance. On any non-conforming structure or portion of the structure containing a non-conforming use, work may be done on ordinary repairs and fixtures, wiring, plumbing, or repair or replacement of non-load-bearing walls, to an extent not exceeding 10 percent of the replacement value of the building in any one year, provided that such work does not increase the cubic content of the building. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official or other person qualified to make such a declaration.
- 43.7 Conditional Uses. A conditional use provided for under Section 41 of these regulations shall not be deemed a non-conforming use in the district in which it is permitted.
- 43.8 Determination of Status of Non-Conforming Land Uses and Structures: It shall be the responsibility of the Zoning Enforcement Agent to determine the status of non-conforming land uses and structures. If the Zoning Enforcement Agent determines that a use or structure meets the applicable criteria of sections 43.1, 43.3, 43.4 and 43.5 above, the use or structure shall be deemed an Approved Non-Conforming Land Use or Approved Non-Conforming Structure. The following procedure shall be followed to determine the status of non-conforming land uses and structures.
- a. The owner of record of the subject use or structure shall make an application for a determination of the status of a land use or structure.
  - b. It shall be the burden of the applicant to prove entitlement to approved non-conforming status by furnishing the Zoning Enforcement Agent with a preponderance of supporting information. Such information shall include, but not be limited to, septic or sewer hook-up permits, building permits, business licenses and dated photographs.
  - c. The Zoning Enforcement Agent shall determine on a case-by-case basis whether a land use or structure is an existing non-conforming use or existing non-conforming structure.
  - d. Appeals of the Zoning Enforcement Agent's decision may be made in accordance with the provisions of Section 38.3.
  - e. The Zoning Enforcement Agent shall maintain a record of existing non-conforming uses and structures as such information becomes available.

*(Amended: County Commission Resolution No. 2009-034)*

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## SECTION 44 VARIANCES

44.1 Authorization to Grant or Deny Variances. The County Commission may authorize a variance from the requirements of these regulations as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of these regulations or decision of the Planning and Zoning Commission will result in unnecessary hardship. No variance shall be granted to allow the use or development of property for a purpose not authorized within the zone in which the proposed development would be located. In granting a variance, the County Commission may attach conditions it finds necessary to achieve compliance with the criteria of Section 44.2

44.2 Criteria For Granting a Variance. In considering whether a variance will not be contrary to the public interest and whether, owing to special conditions, literal enforcement of these regulations or a decision of the Planning and Zoning Commission will result in unnecessary hardship, the County Commission shall consider the following criteria:

- a. Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same zone (as shown on the official zoning map) or vicinity and that result from lot size or shape, topography, or other circumstances over which the owners of property have had no control since enactment of this regulation.
- b. The variance is necessary for the preservation of a property right of the applicant that is substantially the same as that possessed by owners of other property in the same zone (as shown on the official zoning map).
- c. The variance would not be materially detrimental to property in the same zone or vicinity in which the property is located.
- d. The variance requested is the minimum variance that would alleviate the hardship.

44.3 Procedure. Written applications for a variance shall be filed with the Zoning Enforcement Agent. The fee shall accompany the application. An application shall not be regarded as having been filed until the fee is paid.

The County Commission shall cause to be made such investigation bearing on the application as will provide necessary information to assure that the action on the application is consistent with the intent and purpose of these regulations.

44.4 Hearing and Notice. There shall be a public hearing for each variance application. The County Commission shall accept testimony from persons interested in the application, from the applicant, and from the Zoning Enforcement Agent.

Notice of hearing shall be published once in a newspaper of general circulation within Gallatin County at least 15 days prior to the hearing date. In addition, the Planning Staff shall send a certified letter to record owners of property adjoining a proposed variance.

- 44.5 Approval. In approving an application for a variance, the County Commission may designate such lawful conditions as will secure substantial protection for the public health, safety, and general welfare and shall find the request to meet the criteria set forth in Section 44.2. Any approval under this section shall be subject to the terms of the designate conditions.

## **SECTION 45                      COMPLAINTS AND ENFORCEMENT**

### **45.1: Compliance**

Any person may file a written complaint with the Gallatin County Planning Department whenever a violation of this regulation occurs or is alleged to have occurred. The complaint shall state fully the facts supporting the complaint.

Upon receipt of a complaint, or upon its own initiative, Gallatin County Planning Department and/or Compliance Department staff shall immediately investigate and take action as provided by the regulation. The investigator shall notify the person of the alleged violation and request access for an inspection. If access is denied, the investigator may seek an administrative warrant. With reasonable cause, the Planning and/or Compliance departments may revoke any land use permit, issue cease and desist orders requiring cessation of any building, moving, alteration or use which is in violation of the regulation and require corrective action, including dismantling or removal of non-complying structures, to remedy the violation.

### **45.2: Injunction**

After the exhaustion of administrative remedies and pursuant to MCA § 76-2-113, the County Attorney, in conjunction with the Code Compliance Specialist, may bring an action in the name of the County of Gallatin in the District Court to enjoin any violations of this ordinance.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or other person/entity who commits, participates in, assists or maintains such violation may each be held accountable for a separate violation.

The prevailing party may be awarded all costs, including attorney's fees.

### **45.3: Fines**

The Planning and Zoning Commission may assess violator's fines of up to \$500 per day of violation for noncompliance until the violation is remedied. When determining the amount and duration of a fine, the Planning and Zoning Commission shall consider the nature, circumstances, extent and gravity of the violation, any prior history of such violations, the degree of culpability, and such other matters as justice may require. In addition, the violator may be required to pay administrative costs. If the fine is not paid, it shall become a lien upon the property. An alleged violator may appeal the assessment of a fine to the County Commission as set forth below.

### **45.4: Appeal Process (Violations)**

An alleged violator may appeal a Gallatin County Planning or Compliance Department's decision regarding a violation in writing via certified mail to the Planning and Zoning Commission within ten (10) business days.

The Planning and Zoning Commission shall hold a hearing within 45 business days from the date that the appeal was received. The Planning and Zoning Commission shall, in writing, affirm, modify or withdraw the Department's decision within 20 business days after the hearing. Once an appeal for a hearing has been made, the Department's decision shall be stayed until the Planning and Zoning Commission has held the hearing and affirmed, modified or withdrawn the determination of the Department. Any final decision made by the Planning and Zoning Commission will be binding upon the Department.

Any person may appeal a final decision of the Planning and Zoning Commission within 30 days to the Eighteenth Judicial District Court.

#### 45.5: Appeal Process (Fines)

An alleged violator may appeal a Planning and Zoning Commission's assessment of a fine for noncompliance to the County Commission with 10 business days in writing via certified mail. The County Commission shall hear the appeal at a regularly scheduled meeting within 45 business days from the date the appeal was received, and shall, in writing, affirm, modify or withdraw the Planning and Zoning Commission's decision within 20 business days after the hearing. Once an appeal for a hearing has been made, the Planning and Zoning Commission's decision shall be stayed until the County Commission has held the hearing and affirmed, modified or withdrawn the determination of the Planning and Zoning Commission.

Any person may appeal a final decision of the Board of County Commissioners within 30 days to the Eighteenth Judicial District Court.

*(Amended: County Commission Resolution No. 2004-67)*

*(Amended: County Commission Resolution No. 2004-144)*



## **SECTION 46            ADOPTION**

These regulations were recommended for adoption by Resolution No. 1996-03 of the Gallatin Canyon/Big Sky Planning and Zoning Commission on June 20, 1996.

\_\_\_\_\_/s/\_\_\_\_\_  
**STAN HUGHES**, CHAIRMAN  
COUNTY TREASURER/ASSESSOR

\_\_\_\_\_/s/\_\_\_\_\_  
**JANE JELINSKI**, MEMBER  
COUNTY COMMISSIONER

\_\_\_\_\_/s/\_\_\_\_\_  
**KRIS DUNN**, MEMBER  
COUNTY COMMISSIONER

\_\_\_\_\_/s/\_\_\_\_\_  
**PHIL OLSON**, MEMBER  
COUNTY COMMISSIONER

\_\_\_\_\_/s/\_\_\_\_\_  
**SHELLEY CHENEY**, MEMBER  
COUNTY CLERK & RECORDER/SURVEYOR

THIS REGULATION WAS AMENDED BY RESOLUTION NO. 1996-07 AND RESOLUTION NO. 1996-08 OF THE GALLATIN COUNTY ZONING COMMISSION ON OCTOBER 17, 1996.

THE REGULATION WAS AMENDED BY RESOLUTION NO. 1997-06 OF THE GALLATIN COUNTY ZONING COMMISSION ON NOVEMBER 13, 1997; AND AMENDED ON SEPTEMBER 11, 1997 BY RESOLUTION NO. 1997-07; AND AMENDED ON MARCH 12, 1998 BY RESOLUTION NO. 1998-04; AND AMENDED ON NOVEMBER 18, 1999 BY RESOLUTION NO. 1999-12; AND AMENDED ON JANUARY 13, 2000 BY RESOLUTION NO. 2000-04; AND AMENDED ON APRIL 11, 2002 BY RESOLUTION NO. 2002-04; AND AMENDED ON APRIL 8, 2004 BY RESOLUTION NO. 2004-05; AND AMENDED ON MAY 13, 2004 BY RESOLUTION NO. 2004-07; AND AMENDED ON MAY 13, 2004 BY RESOLUTION NO. 2004-08; AND AMENDED ON OCTOBER 14, 2004 BY RESOLUTION NO. 2004-21. AMENDED ON OCTOBER 28, 2004 BY RESOLUTION NO. 2004-22 AMENDED ON DECEMBER 14, 2006.  
AMENDED ON MARCH 17, 2009 BY RESOLUTION NO. 2009-034 AND NO. 2009-035

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**47.1** Natural Resources CUP Requirements. All exploration, development, and recovery operations relating to oil and gas, coal bed methane production including but not limited to: test wells, production wells, compressor stations, etc.; surface and underground mining (excepting commercial gravel quarries), shall require review under the natural resources conditional use permit process described in this Regulation.

The Planning and Zoning Commission may grant such permit only if it is found that:

1. The use conforms to the goals and implements the objectives of the Gallatin Canyon/Big Sky Plan, and the intent of these Regulations;
2. The use will not adversely affect nearby properties, residents, groundwater, streams and wetlands;
3. That all natural resource exploration, development, extraction and recovery operations occur in a responsible manner;\
4. The use contributes and guarantees payment of an appropriate share of the costs for public services and facilities;
5. That adequate financial security, as determined by the Gallatin County Attorney, has been provided to mitigate any such adverse effect;
6. The use meets density, coverage, yard, height, and all other regulations of the district in which it is located, unless otherwise provided in these Regulations;
7. The use meets all other applicable federal, state, and local regulations; and
8. A public hearing, after notice has been given, has been held.

**47.2** Procedure for Obtaining a Natural Resources CUP. An applicant for a Natural Resources CUP shall submit the preliminary application, as described in Section 47.3, accompanied by the appropriate fee, to the Planning Department. Upon determination that the application is complete, the Planning Department shall schedule a hearing before the Planning and Zoning Commission and provide the required legal notice. The Planning and Zoning Commission may not deny a preliminary application but shall take public comment on the content of the Initial Development Plan. The Planning and Zoning Commission shall provide the applicant with its comments on the Initial Development Plan in writing within 30 working days of the public hearing on the preliminary application.

Subsequent to completion of the preliminary application process, an applicant for a Natural Resources CUP may submit the final application, as described in Section 47.4, accompanied by the appropriate fee, to the Planning Department. Upon determination that the application is complete, the Planning Department shall schedule a hearing before the Planning and Zoning Commission and provide the required legal notice. The Planning and Zoning Commission shall consider the application material, applicant testimony, the Staff Report and public comment. The Planning and Zoning Commission shall not grant a Natural Resources CUP unless the findings required under Section 47.1 and 41.2 are satisfied. The Planning and Zoning Commission shall provide the applicant with written findings regarding its decision.

**47.3 Preliminary Application.** Applicant shall submit a Preliminary Application to the Planning Department. The full fee established under the Planning Department Fee Schedule shall accompany all Preliminary Applications. The Preliminary Application shall include the following:

1. Fifteen copies of a completed conditional use permit application form and an Initial Development Plan, prepared by the Applicant or Applicant's agent. Said plan, which shall be the preparatory basis for the Environmental Impact Statement, shall address all of the following:
  - a. Cover letter describing project and submittal material;
  - b. Copy(s) of all associated natural resource leases and deeded rights;
  - c. Copy(s) of all applicable orders from the Montana Board of Oil and Gas Conservation, and with associated stipulations;
  - d. Name and location of all water wells, springs, and surface water within a one-and-a-half mile radius of proposed site;
  - e. Detailed site inventory map and site development plan (1" = 50'), shall include a perimeter extending a distance of 1000 feet beyond the site boundary on all sides, to include all existing and proposed structures, well pad location(s), roads and rights-of-way, fencing, lighting, pipelines, pertinent surface features, areas of wildlife and wildlife habitat, bodies of water, jurisdictional and non-jurisdictional wetlands, and all development and mitigation measures associated with application. Applicant shall submit color photos of site location and of area from proposed site to north, south, east and west;
  - f. Complete written description of project including but not limited to: proposed hours of operation (inclusive of days of the week and hours of operation for maintenance of equipment); duration of project; operation of project, including staffing schedule(s), maintenance of equipment, and estimated trips per day; traffic study and/or other information as required by the Gallatin County Road and Bridge Superintendent; fire and disaster mitigation plan(s); etc.;

- g. An approved Noxious Weed Control and Revegetation Plan through the Gallatin County Weed Control District;
  - h. Plans for reclamation of all disturbances associated with project(s);
  - i. Any additional information as deemed necessary by the Planning Department during the Planning Department's initial review.
2. Name and address of all property owners within a one-and-a-half mile radius of proposed project, including postage for certified mail to each address.

**47.4** Final Application. Applicant shall submit fifteen copies of a Final Application to the Planning Department. The full fee established under the Planning Department Fee Schedule shall accompany all Final Applications. The Final Application shall include a completed conditional use permit application, a Final Development Plan, and an Environmental Impact Statement (EIS) conducted by a third-party Montana State licensed professional engineer qualified to evaluate the project's impacts, at the Applicant's expense. The Final Application shall also contain all required Performance Bonds and other securities and fees as indicated below.

- 1. Applicant shall provide the Final Development Plan based on information provided in the EIS. The Final Development Plan shall:
  - a. Evidence of the fee simple surface owner's consent shall be required for surface and underground mining. Evidence that the surface owner has been notified of the Applicant's final development plan shall be required for oil, gas and coal bed methane development;
  - b. Document plans to protect property values of surrounding properties;
  - c. Document plans for fire protection and emergency response;
  - d. Document adequate water quantity and water rights for the proposal;
  - e. Demonstrate plans for protecting surface and ground water quality;
  - f. Demonstrate plans for conservation of fish, wildlife and plant habitat;
  - g. Demonstrate plans for compliance with local, state and federal air quality regulations and/or standards;
  - h. Demonstrate plans for screening and/or landscaping and its long-term maintenance so as to limit soil erosion and be in compliance with all local, state and federal soil management and conservation regulations and/or standards;
  - i. Demonstrate plans to comply with all applicable weed control regulations and the approved Noxious Weed Control and Revegetation Plan;

- j. Include a schedule of phased-in development to diffuse impacts over time;
  - k. Demonstrate plans for compliance with §§ 85-2-505 and 82-11-175, MCA including amendments thereto, and any other applicable local, state and federal laws or regulations regarding disposal of all ground water involved with the proposal; and
  - l. Demonstrate plans for sufficient reclamation for any and all disturbances associated with the project(s).
  - m. Address all comments raised by the Planning and Zoning Commission as a result of their review of the Preliminary Application.
2. The EIS shall include:
- a. Appraisal of current property values for the site and all properties within one-and-a-half miles of the boundaries of the proposal;
  - b. An analysis of effects of proposed development on fire and emergency response systems;
  - c. Thorough collection of fish, wildlife and plant inventories;
  - d. Collection of baseline data of existing surface and ground water quality and quantity;
  - e. Collection of baseline data of existing air quality;
  - f. Collection of baseline data of existing noise levels;
  - g. An analysis by qualified expert(s) of the Final Development Plan's specific measures to protect and conserve: (1) property values; (2) water quality and quantity; (3) agricultural and conservation usage; (4) plant and wildlife habitat; (5) air quality; and (6) noise levels; and
  - h. A Monitoring Schedule for effective third party monitoring, on a monthly basis, by a State of Montana licensed and bonded environmental engineer (Monitor), of all development, as stated in the submitted Final Development Plan. The Planning and Zoning Commission shall approve the Monitoring Schedule. The licensed and bonded environmental engineer third party monitor shall be agreed upon by the Planning and Zoning Commission and the Applicant. The Monitoring Schedule shall contain all the requirements listed in Section 47.5.

**47.5** Monitoring Schedule. The Monitoring Schedule must provide a mechanism for prompt notification to any and all local, state, or federal agencies involved in any permit or certification required for the proposal. The purpose of such notification is to ensure adequate enforcement of existing local, state and federal laws and regulations to protect private property and other rights of Montana citizens and Montana's natural resources. The Monitoring Schedule shall require the Applicant to prepare and submit to the Planning Department a Monthly Monitoring Report.

1. Monthly Monitoring Report. The Monthly Monitoring Report shall include a description of all data collected during the period, as well as data trends collected over time, detailed descriptions of any and all spills, leaks, contaminations, regardless of whether the spill, leak or contamination is a violation of local, state or federal laws or regulations. The Monthly Monitoring Report shall also include a detailed description of any violation of local, state, or federal laws or regulations and any corrective action taken. The Monthly Monitoring Report shall be a requirement of conditional approval and the failure to supply such Monthly Monitoring Report may be grounds for revocation of a Natural Resource CUP.
2. Monitoring Expenses/Performance Bonds. Such monitoring shall be at the sole expense of the Applicant, and a specific Monitoring Performance Bond shall guarantee all costs of monitoring. The Monitoring Performance Bond shall be approved by the Gallatin County Attorney and made payable to the environmental engineer selected as the third party monitor. Gallatin County shall be a beneficiary of the Monitoring Performance Bond and shall have express authority to collect upon said bond in the event Applicant, their successors or assigns, fails to adequately monitor the project. The Monitoring Performance Bond shall be updated annually and shall provide for payments and expenses of all monitoring for no less than a 10-year period from the date of each update. Failure to maintain payment to the Monitor and failure to maintain an adequate Monitoring Performance Bond for all monitoring expenses for no less than 10 years from the date of each update shall be cause for revocation of the conditional use permit. The Monitoring Performance Bond shall be in addition to any required reclamation bond or other performance bond required by any other local, state, or federal agency.

**47.6** Conditional Approval. A final application for CUP may be approved, conditionally approved or denied by the Planning and Zoning Commission. If a final application is denied, the denial shall constitute a finding that the Applicant has not shown that the conditions required for approval do exist.

The Planning and Zoning Commission shall make the granting of the conditional use permit subject to reasonable limitations or conditions as it may deem necessary to protect the health, safety, and general welfare of the citizens of the District; and to mitigate or avoid adverse impacts on nearby property, residents, groundwater, streams and wetlands; and to ensure that all exploration, development, and recovery operations relating to oil and gas, coal bed methane production occurs in a responsible manner and contributes and guarantees payment of an appropriate share of the costs for public services and facilities; and to make the proposed use more compatible and consistent with the Gallatin Canyon/Big Sky Zoning Regulation, the Plan, and the CIP. Said conditions may include but not be limited to the following:

- a. Specific requirements for vehicular ingress and egress;
- b. Specific requirements of hours of operation;
- c. Specific requirements for the discharge of groundwater and surface water;
- d. A fee for discharged effluent, based upon one and one-half times the total estimated or actual costs of all environmental cleanup or mitigation performed by or for any public agency, in order to achieve compliance with these Regulations;
- e. Specific requirements for control of odors, smoke, dust, airborne particles, vibration, glare, light, setbacks from bodies of water including wetlands and wells, disclosure, management and monitoring of chemicals, and noise emissions from point and non-point sources;
- f. Specific requirements for placement and height of structures required for the conditional use on the subject property;
- g. Specific requirements for dedication, improvements and/or maintenance of rights-of-way;
- h. Limitation of length of time or term such conditional use may be permitted;
- i. Conditions for the approval may include changes to the Development Plan based upon information and data from the EIS, the public hearing(s), and any written comments from the public, so as to improve environmental and property protection;
- j. The Planning and Zoning Commission shall impose conditions requiring the Applicant to use best available low-impact technologies, such as aquifer recharge, clustered development, directional drilling, mufflers for compressor stations, discharge water desalination, infiltration or treatment, etc., to minimize impacts on underground water reserves, rivers and streams, and surface resources.



- k. The Planning and Zoning Commission shall impose conditions requiring the Applicant to guarantee complete reclamation of all disturbed areas. This guarantee shall be accomplished by requiring all natural resource development, exploration, or extraction Applicants to post separate site-specific performance bonds for each tract of property affected by the proposed CUP. Said performance bonds shall be acceptable to the Planning and Zoning Commission, payable to Gallatin County, and shall be equal to or greater than the current value of the property plus the potential cleanup cost of any resultant air, land or water pollution or degradation, as estimated by the required Development Plan and Environmental Impact Statement and shall be valid for the entire term of the CUP. Failure to maintain adequate performance bonding shall be cause for revocation of the CUP.

**47.7** Expiration/Extensions/CUP for Definite Term. The Planning and Zoning Commission may issue a Natural Resource CUP for a definite term. Extensions can be obtained through written application made at least thirty (30) days prior to expiration, with accompanying fee and notification sent to adjacent property owners. A public hearing will be held and said hearing shall be subject to the notice requirements of this Section. Failure to apply for an extension of an approved CUP for a definite term shall require a new Natural Resource CUP application.

*(Amended: County Commission Resolution No.2009-035)*

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